

**In the Court of Sessions Judge, Merta, Nagaur [Rajasthan]**

(Presiding-officer: Arun K Beriwal)

**[Targetted oldest case no:18 ]**

CrI.Appeal No: 59/2019

**In the matter of:**

Hukmaram

S/o: Shivlal

R/o: Baldev Colony, Merta City

(Nagaur)

[Rajasthan]

**Appellant**

**Vs**

1. Mahaveerraj

S/o: Jaswantraj Mehta

R/o: Merta City

Dist.- Nagaur

[Rajasthan]

**Respondent no.1**

2. Shivprasad Prajapat

S/o: Gordhanlal

R/o: Merta Road

Dist.- Nagaur

[Rajasthan]

**Respondent no.2**

3. State of Rajasthan

Through It's

Public Prosecutor,

Merta (Nagaur)

[Rajasthan]

**Respondent no.3**

**Present:** S.D.Sandhu, Advocate for the Appellant

O.P.Prajapat Advocate for Respondents no.1 & 2

Abhimanyu Sharma Advocate for Resp. No.3

7.3.2026

**J U D G M E N T**

1. This Judgment will dispose off the instant appeal arising out of judgment & order dated 4.7.2019 by the court of JM,Merta [Nagaur] u/s.332 of I.P.C whereby the Respondents/Mahavirraj & Shivprasad were acquitted by giving them the benefit of doubt.
2. The Prosecution case in brief as per Appellant is that a charge u/s. u/s.332 IPC was framed against the Respondents/Mahavirraj & Shivprasad by the Ld. Trial court alleging that on 8.12.2005 in the evening at about 5:20 pm in Govt.Hospital, Merta when the complainant/Hukmaram was doing work as 'Male-Nurse' in discharge of his duties as a public-servant at that time, both the accused persons/Mahavirraj & Shivprasad have beaten him & thus, a case u/s. 332 IPC was got registered at PS:Merta City.
3. That during the course of trial before Ld. Trial court, the testimony of following witnesses **[PW:1 to PW:9]** were go recorded:-
  - PW:1/Hukmaram [complainant & Witness to Ex:P- 1 to 16],
  - PW:2/Bagdaram [Witness to Ex:P- 4 Naksha-Mauka]
  - PW:3/Bhanwarlal [Eye-witness]
  - PW:4/Baksharam [Witness to Ex:P- 4 Naksha-Mauka]
  - PW:5/Shanti Choudhary [Eye-Witness & Co-Worker]
  - PW:6/Dr. O.P.Inanni [M.O.]
  - PW:7/Anil Beda [Eye Witness]
  - PW:8/Jaggannath lal [IO]
  - PW:9/Sharada [Eye-Witness].
4. That the following documents **[Ex:P-1 to Ex:P-16]** were marked as Exhibit before Ld. Trial court as under:-

- Ex:P-1/Written complaint
- Ex:P-2/Chalk F.I.R.
- Ex:P-3/Injury Report of Hukmaram
- Ex:P-4/Naksha-Mauka
- Ex:P-5/Relieving-order of CHC,Merta
- Ex:P-6/Suspension-Order dt. 09.12.2005 by MHS,Jaipur
- Ex:P-7/ Copy of Order for changing Headquarter
- Ex:P-8/Relieving-order dt. 22.03.2006 by CMHO, Nagaur
- Ex:P-9/Order of reinstatement of Hukmaram
- Ex:P-10/Relieving Order dt. 17.04.2006 by MHS,Jaipur
- Ex:P-11/Application of joining at Merta dt:17.4.2006.
- Ex:P-12/Salary Drawn sheet
- Ex:P-13/Complaint Letter
- Ex:P-14/Postal Receipt
- Ex:P-15/True copy of the Order of Honb'le Rajasthan High Court in DBC review petition no:32/1999 in DBC Special appeal no: 810/1998 dated 18.9.2003.
- Ex:P-16/Transfer Order dt:22.9.2001 by MHS Jaipur.

5. That the Defense has got examined as **DW:1/Mahaveerraj** & got marked **Ex:D-1 to Ex:D-4** before Ld. Trial court as under:-

- Ex:D-1/Statement of Hukmaram u/s. 161 Cr.P.C
- Ex:D-2/Statement of ShantiDevi u/s. 161 Cr.P.C
- Ex:D-2/Final report [doubly marked]
- Ex:D-3/FIR no: 324 dt: 8.12.2005
- Ex:D-4/Injury report of Mahaveerraj.

### **Findings of Ld. Trial court**

6. The Ld. Trial court has arrived at the following findings vide final judgment of acquittal dated 4.7.2019 while taking the view at para 18 that:-

“परिवादी हुक्माराम की ही पुत्रवधू है तथा पी.ड. 9 शारदा और पी.ड 7 अनिल बेडा के कथनो से यह भी स्पष्ट है कि अनिल बेडा, परिवादी का किराएदार है और दोनो के कथनो के अनुसार पी.ड. 7 अनिल, पी.ड. 9 शारदा को दिखाने के लिए अस्पताल लेकर गया था। पी.ड. 9 शारदा ने अपनी साक्ष्य में कहा कि वह अनिल के साथ डॉ. सविता टाक को दिखाने के लिए गई थी जबकि अनिल पी ड. 7 ने अपनी जिरह में यह कहा है कि वह अखिल गुप्ता डॉ. को दिखाने गए थे। परिवादी की रिपोर्ट प्रदर्श पी 1 में परिवादी ने यह तथ्य भी दर्ज किया कि वह अपने गवाह पुलिस के सामने पेश करेगा क्योंकि वह डॉ. सविता टाक से डरते हैं। परिवादी ने मारपीट में किन लोगों द्वारा बीच-बचाव किया गया, इस संबंध में अपनी रिपोर्ट प्रदर्श पी1 में कोई तथ्य दर्ज नहीं किया बल्कि वह कहता है कि गवाहान सविता टाक से डरते हैं जबकि उसने अपनी साक्ष्य में उसके स्वयं की पुत्रवधु शारदा तथा उनके किराएदार अनिल एवं अपनी पत्नी को दिखाने के लिए आए हुए भंवरलाल का नाम भी बीच-बचाव करने में बताया जो सभी गवाहान अस्पताल के कर्मचारी भी नहीं होना प्रतीत होते हैं। तो यह गवाहान डॉ सविता टाक से डरते हो यह प्रतीत नहीं होता है। उसने शांति नर्स का नाम बीच-बचाव करने में बताया था जबकि शांति नर्स का नाम उसने अपनी एफआईआर में दर्ज नहीं करवाया है।”

“गवाह पीड. 5 शांति देवी मारपीट के समय उसके द्वारा बीच-बचाव किया जाना बताती है लेकिन शांति देवी घटना के समय मौजूद थी और उसने बीच-बचाव किया होता तो इस संबंध में परिवादी तथा अन्य गवाहान न्यायालय में प्रोटेस्ट पिटीशन के समर्थन में दी गई सशपथ साक्ष्य में कथन अवश्य करते। पी.ड. 5 शांति देवी के पत्रावली पर उपलब्ध पुलिस बयान प्रदर्श डी 2 के अनुसार उसने घटना नहीं देखी थी जिन कथनो के संबंध में वह अधिवक्ता अभियुक्तगण द्वारा की गई जिरह में यह कहती है कि उसके पुलिस बयान प्रदर्श डी 2 का ए से बी

हिस्सा उसका लिखाया हुआ नहीं है। पत्रावली पर उपलब्ध शांति देवी के पुलिस बयान प्रदर्श डी 2 से यह दर्शित होता है कि उसमें यह अंकित है कि उसने घटना नहीं देखी थी जबकि अपनी साक्ष्य में वह मारपीट के समय मौजूद होना बताती है।"

“परिवादी पी.ड. 1 ने अपनी साक्ष्य में यह कहा कि उसके बाईं गुदी पर व डावे हाथ व पीठ पर चोटें आई थी जिन चोटों के संबंध में उसने अपनी रिपोर्ट प्रदर्श पी 1 में कोई तथ्य दर्ज नहीं किया। चिकित्सक साक्षी पी.ड. 6 डॉ. ओमप्रकाश ईनाणि ने मजरूब का घटना की ही दिनांक 08.12.2005 को मेडिकल मुआयना किए जाने पर उसकी गर्दन के पीछे व उसके बाएं हाथ के पंजे के बाहरी तरफ लालिमा लिए हुए खरोंच का निशान होना बताया है। जबकि परिवादी द्वारा पेश की गई रिपोर्ट प्रदर्श पी में दर्ज कार्यवाही पुलिस में यह अंकित किया गया है कि मजरूब के शरीर का मुआयना करने पर कोई जाहिरा चोट नहीं आई हुई है। ऐसी स्थिति में उसके चोट प्रतिवेदन में दर्शाई गई चोटें उसके द्वारा बताई गई मारपीट में कारित हुईं. यह भी संदेह से परे प्रमाणित नहीं होता है। जो चोटें उसके चोट प्रतिवेदन में दर्शाई गई है वह मामूली खरोंच है जो कि स्वयं कारित भी हो सकती है।”

### **Analysis of submissions of Appellant & findings**

7. Ld. Counsel for Appellant submits that a public servant functioning & discharging duties in a Govt Hospital in capacity of a male-nurse was beaten by the accused persons viz: Mahaveerraj & Shivprasad on 8.12.2005 and thus caused hurt to a public servant with a view to deter him from doing his public duty & all the Prosecution witnesses and documents corroborates the same.

Thus, the Ld. Trial Court has grossly erred in acquitting the accused persons without properly appreciating the evidence on record of the Ld. Trial court. It is urged in appeal that the ingredients of section 332 of IPC were fully established by the State beyond all reasonable doubts and thus, judgment of acquittal is against the record & is liable to be set-aside.

**Point for determination in Appeal**

8. The only solitary point for consideration in this appeal is as to:-

**“Whether the findings of Ld. Trial court recording acquittal in favour of accused-persons is unjust, perverse and against the record & the same is liable to be set-aside in this appeal particularly when the attack on a public-servant by accused persons inside the Govt. Hospital is apparent from record ?”**

9. This court has carefully seen the record in the light of submissions of the appellants and found the following undisputed facts as emerging from the record & the conclusions of this court thereof are as under:-

- i. That on the day of incident i.e. 8.12.2005 the accused persons namely Mahveerraj & Shivprasad were inside the Govt.Hospital at about 5:20 pm in evening and due to some dispute/quarrel they have beaten the victim/Hukmaram who was working as Male-nurse as a public servant. This aspect is evident from testimony of as many as 6 eye-witness viz: **PW:1/Complainant/Hukmaram, PW:2/Bagdaram[attendant of Patient-being a natural witness], PW:3/Bhanwarlal [attendant of Patient-being a natural witness], PW:5/Shanti Chaudhary[Co-worker], PW:7/Anil Beda [attendant of Patient-being a natural witness] and PW:9/Sharada [Patient].**
- ii. In documentary evidence, **Ex:P-1/complaint, Ex:P-2/FIR, Ex:P-3/Injury report of Hukmaram showing simple injury & Ex:p-5/Relieving order of 8.12.2005 by CHC, Merta** clearly shows that on 8.12.2005, some quarrel took place between the accused persons and the complainant-Hukmaram in the evening at about 5:20 pm whereby the accused persons have

beaten up the complainant & thereby deterred him from discharging his official duties.

- iii. In order to constitute an offence u/s. 332 of IPC, the prosecution is required to prove beyond reasonable doubts that the complainant was serving as a public-servant at the relevant time & he was deterred by act of accused persons from discharging his official duties by causing 'hurt' to him.
- iv. Section 319 IPC defines 'hurt' as "Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt." Thus mere simple injury inflicted by the accused persons to the complainant with a view to deter him from discharge of his duties as a public-servant is 'per-se' sufficient to constitute an offence u/s. 332 IPC.
- v. The testimony of **DW:1/MahaveerRaj** shows his own presence as well as the presence of co-accused/Shivprasad on 8.12.2005 inside the Govt. Hospital, Merta & it also shows that some quarrel took place between the accused persons and the complainant.
- vi. The conclusions arrived at by Ld. Trial court qua 'injury' is apparently without any shred of evidence on record wherein it reads:- "जो चोटें उसके चोट प्रतिवेदन में दर्शाई गई है वह मामूली खरोंच है जो कि स्वयं कारित भी हो सकती है।" As per **Injury report/Ex:P-3**, 4 injuries were found on complainant by Dr.O.P.Inannia and all Abrasion marks were simple in nature caused by blunt object within 12 hours. This conclusion of Ld. Trial court is patently a surmise and an inferential interpretation.
- vii. The standard of proof in a criminal case is clearly "**beyond all reasonable doubts**" and not by "**mere preponderance of probability**". However, in this case as many 6 eye-witnesses

out of which 3 attendant of patients & one patient herself have categorically testified about the fact that accused persons were found/noticed to be beating & fighting with the complainant.

- viii. This court finds the testimony of **PW:2/Bagdaram[attendant of Patient-being a natural witness]** wherein he deposed “मेडिकल वाला मारपीट करने लग गया ।”
- ix. Further **PW:3/Bhanwarlal [another attendant of Patient-being a natural witness]** had deposed “मै डॉ अखिल गुप्ता को मेरी पत्नी रामेश्वरी देवी को दिखाने गया था, तब कमरा नं. 06 के सामने मै खडा था । राजकीय अस्पताल के कमरा नं. 06 के सामने खडा था । शिवजी हाजिर आदालत मुलजिम हुक्माराम को बुलाकर लाए वहां पर महावीर खडा था व शिवजीराम व महावीरराज ने हुक्माराम की कोलर पकडी व मारपीट करने शुरू कर दी थी। मारपीट थापा मुक्को से की थी हुक्माराम के साथ महावीर व शिवजीराम ने मारपीट की थी अनिल, शारदा व शांतिदेवी मैने उनको छुडाया था।”,
- x. Moreso, the **PW:7/Anil Beda [attendant of Patient-being a natural witness]** has deposed “मै अपनी भाभी को चैकअप कराने अस्पताल गया था ,शाम करीब सवा पांच बजे की बात है। कमरा नं. 06 के पास महावीर जी मेहता व शिवजीराम हुक्माराम के साथ थापा-मुक्की से मारपीट कर रहे थे। मैने, भंवरूजी,शारदा व शांति ने बीच बचाव कर छुडाया।”
- xi. Lastly, **PW:9/Sharda [Patient]** had deposed “दिनाक 8-12-2005 को शाम के 5.20 बजे की बात है। मैं अनिल जी के साथ सरकारी अस्पताल में डाक्टर सविता टाक के पास अपने आपको दिखाने गई थी क्योंकि मेरा पेट दर्द कर रहा था। मैने देखा कि 6 नम्बर कमरे के पास महावीर महेता व शिवजीराम यह दोनो हुक्माराम का कोलर पकडकर मारपीट कर रहे थे उस समय शांति नर्स और भवरूराम और अनिल जी और मैने बीच बचाव कर हुक्माराम जी को छुडाया।” .

- xii. The Ld. Trial court has not even properly adverted to these testimonies of crucial & material witnesses and by taking the lopsided view of the matter granted acquittal to accused persons with material infirmities. The findings of acquittal as recorded by the Ld. Trial court vide its Judgment dt: 4.7.2019 is neither legal nor sustainable in law & is liable to be interfered with by this court in instant appeal.
10. In view of the law laid down by Hon'ble Supreme Court of India in a case titled as **Ghurey Lal v. State of U.P (2008) 10 SCC 450** wherein it has been held that
- "In appreciating the evidence the approach of the court must be integrated not truncated or isolated. In other words, the impact of the evidence in totality on the prosecution case or innocence of the accused has to be kept in mind in coming to the conclusion as to the guilt or otherwise of accused. In reaching a conclusion, the court about the guilt of accused, the court has to appreciate, analyse and assess the evidence placed before it by the yardstick of probabilities, its intrinsic value and the animus of witnesses."
11. Further, it is a settled proposition of law that to bring home conviction, the prosecution has to establish its case beyond the pale of reasonable doubt by establishing an unbroken chains of events, leading to commission of the offence. It is further a settled proposition of law that once this chain is broken or a plausible theory of another possibility is shown, the accused becomes entitled to the benefit of doubt which ultimately leads to his/her acquittal. 1997 (3) Crimes 55 titled **Sadhu Singh Vs State of Punjab**.
12. Thus, the cardinal rule in the criminal law is that prosecution has to prove their case beyond reasonable doubt and the benefit of the doubt has to be given to the accused as well as the presumption of innocence in favour of the accused. In **Batcu Venkateshwarlu v.**

**Public Prosecutor High Court of A.P**, 2008 (15) Scale 212, the Hon'ble Supreme Court observed as under:-

"To constitute reasonable doubt, it must be free from an over-emotional response. Doubts must be actual and substantial doubts as to the guilt of the accused persons arising from the evidence, or from the lack of it, as opposed to mere vague apprehensions. A reasonable doubt is not an imaginary, trivial or a merely possible doubt, but a fair doubt based upon reason and common sense. It must grow out of the evidence in the case."

13. In **Babu v. State of Kerala**, (2010) 9 SCC 189, the Hon'ble Supreme Court has reiterated the principles to be followed in an appeal against acquittal under Section 378 Cr.P.C. In paras 12 to 19, it is observed and held as under: (SCC pp. 196-199)

"The appellate court should not ordinarily set aside a judgment of acquittal in a case where two views are possible, though the view of the appellate court may be the more probable one. While dealing with a judgment of acquittal, the appellate court has to consider the entire evidence on record, so as to arrive at a finding as to whether the views of the trial court were perverse or otherwise unsustainable."

14. In **Ramachandra Vs. State of Karnataka** (2007) 4 SCC 415, the Hon'ble Supreme Court reiterated the legal position as under:-

- (1) An appellate court has full power to review, reappraise and reconsider the evidence upon which the order of acquittal is founded.
- (2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.
- (3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes",

etc.are not intended to curtail extensive powers of an appellate court in an appeal against acquittal.

- (4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.
- (5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.

15. In **State of Rajasthan v. Naresh**, (2009) 9 SCC 368 the Court again examined the earlier judgments of this Court and laid down that:-  
**"An order of acquittal should not be lightly interfered with even if the Court believes that there is some evidence pointing out the finger towards the accused."**
16. In this case, this court finds that the Judgment of acquittal by the Ld. Trial court in an offence u/s.332 IPC had misdirected itself by taking the view that Prosecution has not been able to prove it's case against the accused persons beyond all reasonable doubts. This court is at it's wits end to note that Ld. Trial court has tried to dislodge all the credible & believable evidence of as many as 6 eye-witnesses & the documents on record while recording the erroneous findings of acquittal in favour of accused persons by giving them the benefit of doubt. Hence, the Judgment & order dated 4.7.2019 passed by Ld. Trial court in Case no: 55/2007 is hereby set-aside and both the accused persons/Mahaveer Raj & Shivprasad stands convicted for having committed offence u/s.332 IPC,1860. Bail bonds of accused persons stands cancelled.

17. The offence u/s. 332 IPC is punishable for a period which may extent to 3 years with fine & thus, having regard to the fact that the case is of the year 2005 and Ld. Trial court granted acquittal in the year 2019 and the appeal is pending since than in this court.

**Whether accused persons entitled to benefit of probation ?**

18. From record it appears that the **accused-persons/Mahaveer Raj & Shivprasad** are having no criminal antecedents & are aged over 50 years thus, ends of justice would be fully met if at this juncture, instead of imposing a substantial sentence, the **accused-persons/ Mahaveer Raj & Shivprasad** be punished with fine of Rs.10,000 each for having committed offence u/s. 332 IPC.1860.

Let the fine amount of total Rs.20,000 be deposited/paid by accused-persons to the complainant/Hukmaram as per legislative mandate u/s.357(4) of Cr.P.C with a view to compensate him.

19. Both **accused/Mahaveer Raj & Shivprasad** be released on probation of good conduct as per the provisions of section 3 & 4 of Probation of offenders Act read with section 360 Cr.P.C. on their furnishing a bond of good conduct of Rs.1 lakh each for a period of 2 years subject to satisfaction of Ld. Trial court within 2 working days. Fine be deposited within same timelines before Ld. Trial court.
20. Let copy of this order be sent to Ld. Trial court for compliance. Appeal stands allowed & disposed off.
21. File of this case be consigned to records & TCR be sent back.

Pronounced in open court & typed by me.