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HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 571 of 2024

1 - State Of Chhattisgarh Through- Aarkashi Kendra City Kotwali, District Raigarh, Chhattisgarh

... Appellant(s)

versus

1 - Saiyyad Jafar @ Chhotu Khan @ Abhishekh S/o Baba Nakhun Shah Aged About 32 Years R/o Bahadurpur, Housing Colony Sector 06, Block 5, M.I.G. 145, Bhutnath Road, Police Station Agamkunwa, District Patna (Bihar).

2 - Subodhkant Singh @ Chhotu @ Abhishekh S/o Shri Ishwar Prasad Singh Aged About 28 Years R/o Chistipur, District Nalanda (Bihar)

3 - Vicky Kumar @ Vicky @ Rajkumar S/o Shri Dwarika Prasad Badhai Aged About 22 Years R/o Badhaiya, Bigha, Police Station Sahar Telpo, District Arbal (Bihar) Present Address Panchsheelnagar, Kumharar, Police Station Agamkunwa, District Patna (Bihar).

... Respondent(s)

For Appellant/State : Mr. Ghanshyam Kashyap, Dy. Govt. Advocate.

For Respondents : Mr. N. Naha Roy, Advocate.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

Judgment on Board

27/02/2026

1. The present acquittal appeal has been filed by the appellant/State under Section 378(3) of the Code of Criminal Procedure, 1973 against

the impugned judgment of acquittal dated 23.02.2019 passed by learned 5th Additional Sessions Judge, Raigarh District Raigarh (C.G.) in Sessions Case No. 585/2014, whereby the respondent accused persons have been acquitted from the offences of Section 342/34, 347/34, 397/34 of IPC and Section 25 (1) (1-A) and 27 of the Arms Act, 1959.

2. The brief facts of the case are that on 04.10.2018 at about 12:54 pm, there was a robbery committed in ICICI Bank, Raigarh on the point of gun, and the accused persons robbed Rs. 75 lakhs from the chest of the bank and Rs. 49,980/- from the cash counter. On the basis of the report lodged by Rohit Bhutra (PW-1), the Dehati Nalishi Ex.P/2 was recorded on 04.10.2010 at about 13:30 hours against the 04 unknown persons. During the commission of the offence, the accused persons caused injuries to the guard of the bank, Ashutosh Upadhyay (PW-13). The injured Ashutosh Upadhyay was taken to K.G. Hospital, Raigarh, where he was medically examined by Dr. Jayant Shrivastava (PW-10), who found one lacerated wound on the right parietal region of his head, bleeding present. He was referred for x-ray of his head; however, no any bony injuries were found on the head, and x-ray report is Ex.P/34. The CCTV footage of ICICI Bank, Raigarh, and the bank slip which were used in bundle of currency notes have been seized vide seizure memo Ex.P/8. One assembled CPU of ICICI Bank has also been seized vide seizure memo Ex.P/7. The spot map Ex.P/1 was prepared by the police.
3. The FIR Ex.P/25 was recorded by the Police against the 04 unknown persons for the offence under Section 342, 347, 394 of IPC, and Section 25 & 27 of the Arms Act.

4. During the investigation, the accused Saiyyad Jafar @ Chhotu Khan @ Abhishekh was arrested on 07.05.2011, Vicky Kumar @ Vicky @ Rajkumar was arrested on 21.05.2011, and the accused Subodhkant Singh @ Chhotu @ Abhishekh was arrested on 01.06.2011, and their memorandum statements Ex.P/12, Ex.P/13, and Ex.P/14 respectively were recorded. On the basis of their memorandum statement, from the accused Saiyyad Jafar @ Chhotu Khan @ Abhishekh, one motorcycle, cash of Rs. 50,000/-, one country-made pistol, and one live cartridge have been seized vide seizure memo Ex.P/15. From the accused Vicky Kumar @ Vicky @ Rajkumar, one country-made pistol has been seized vide seizure memo Ex.P/16, and from the accused Subodhkant Singh @ Chhotu @ Abhishekh, one motorcycle has been seized vide seizure memo Ex.P/17. Spot map Ex.P/1 was prepared by the police, and Ex.P/4 was prepared by the Revenue Inspector. The accused Saiyyad Jafar @ Chhotu Khan @ Abhishekh was put to test identification parade (in short 'TIP') on 09.05.2011, which was conducted by the Executive Magistrate at Tahsil Office Campus, and during the TIP, accused Saiyyad Jafar @ Chhotu Khan @ Abhishekh was duly identified by the witnesses, and TIP memo Ex.P/5 was prepared. The accused Vicky Kumar @ Vicky @ Rajkumar was also put to TIP on 23.05.2011, which was also conducted by the Executive Magistrate at Tahsil Office Campus, in which he was also duly identified by the witnesses, and memo Ex.P/6 was prepared. The accused Subodhkant Singh @ Chhotu @ Abhishekh was also identified by the witnesses on 13.06.2011, and his test identification memo Ex.P/7. The CD of CCTV footage from ICICI Bank, Raigarh, and the bank notes slip (two numbers of bank note slip) were seized from Branch Manager Nitin

Patel vide seizure memo Ex.P/8. One CPU of the computer has also been seized from Nitin Patel vide seizure memo Ex.P/7. The injured Ashutosh Upadhyay was sent for his treatment to KG Hospital, Raigarh, from where his treatment papers Ex.P/16 were seized by the police, and his MLC report Ex.P/11 was obtained from the doctor. As per his MLC report, one lacerated wound with bleeding was found at the right parietal region of the head. X-ray report is Ex.P/13, and as per the X-ray report Ex.P/34, no bony injuries were found on the body of the injured. The requisition memo sent by the Superintendent of Police of Raigarh to the District Magistrate, Raigarh, for sanction to prosecute the accused persons under Section 25 and 27 of the Arms Act, was also sent, which is Ex.P/21-A, and the District Magistrate, Raigarh, gave the sanction for prosecution under the Arms Act, which is Ex.P/21. The FIR Ex.P/32 was registered under Section 342, 347, and 349 of IPC against the four unknown persons on 04.10.2020. The weapons seized from the accused persons were sent for examination to the Reserved Police Force, Raigarh, from where report Ex.P/31 was received from the armorer, and according to the said report, the country-made pistol was found in working condition, and the seized cartridge was a misfired cartridge. Another report of the armorer was given, which is Ex.P/33, with respect to another country-made pistol, and it was reported it was also in working condition.

5. Statement of the witnesses under Section 161 of Cr.P.C. were recorded and after completion on usual investigation charge-sheet was filed against the accused persons before the learned Chief Judicial Magistrate, First Class, Raigarh, for the offence under Section 342, 347, 397/34, 201 of IPC, 25 and 27 of Arms Act. The case was

committed to the learned Sessions Judge, Raigarh from where the same has been transferred to the learned trial Court for its trial.

6. The learned trial Court has framed charge against the accused persons for the offence under Sections 342/34, 347/34, 397/34 of IPC and 25 (1)(1-A) and 27 of the Arms Act. The accused persons denied the charge and claimed trial.
7. In order to prove the charge against the accused persons the prosecution has examined as many as 34 witnesses. The statement of the accused persons under Section 313 of Cr.P.C. have also been recorded, in which they denied the circumstances that appears against them pleaded innocence and have submitted that they have falsely been implicated in the offence.
8. After appreciation of oral as well as documentary evidence led by the prosecution, the learned trial Court has acquitted the respondent accused persons holding that the prosecution has failed to prove its case beyond reasonable doubt and that the identity of the accused persons could not be established by the prosecution that they have committed offence of robbery in the bank. It is also found by the learned trial Court that the TIP is not reliable as the accused persons have been identified by the witnesses through cctv footage and it was not reliable piece of evidence. The said judgment of acquittal is under challenge in the present acquittal appeal.
9. Learned counsel appearing for the appellant-State would submit that the prosecution has duly proved the prosecution case beyond reasonable doubt. But for minor omissions and contradictions, the evidence of prosecution witnesses are reliable and sufficient to hold them guilty for the alleged offence. Though the witnesses have stated

that they have seen the accused persons in CCTV footage, however, that itself could not be sufficient to discredit the TIP. In the TIP, the witnesses have duly identified the accused persons and supported the identification in their evidence. Merely by some lapses in the investigation, the accused persons cannot be benefited by their acquittal. There are sufficient, overwhelming, and corroborative evidence available on record. The judgment of acquittal suffers perversity and illegality, which is liable to be interfered with in the acquittal appeal, and the impugned judgment of acquittal may be set aside.

10. On the other hand, learned counsel appearing for the respondent/accused persons supported the impugned judgment and submits that the case of the prosecution is based on TIP, which is disbelieved by the learned trial Court on the ground that before identification, the accused persons had seen accused persons in CCTV footage, and therefore, TIP loses its efficacy. Except that, there is no connecting evidence against the accused persons, which implicates them with the offence in question. The learned trial Court, after adverting to the entire facts and circumstances of the case, acquitted the accused persons, which is in accordance with law and not required to be interfered with.
11. I have heard learned counsel for the parties and perused the record of the trial Court.
12. PW-1, Rohit Bhutra, is the Assistant Manager of the Bank. He has not identified the accused persons and denied their identification, though he proved the incident of robbery in the bank and the manner in which the incident occurred inside the bank. However, in his further

examination, he stated that he was asked to identify the accused persons at the time of their identification parade, and he identified the accused persons. In his cross-examination, para-19, he stated that he identified the accused persons on the basis of their CCTV footage.

13. PW-2, Alok Kumar, is the witness to the TIP Ex.P/7, but he has turned hostile and not supported the prosecution case.
14. PW-3, Munish Kumar Pandey, was posted as Junior Officer at ICICI Bank, Raigarh. He too has not supported the prosecution case in his examination-in-chief. However, in his cross-examination when a leading question was being asked, he stated about the incident, but he has not identified the person who committed the robbery in the bank.
15. PW-4, Sakra Bai, is the landlady where the accused persons were tenants. She stated that she identified the accused Subodhkant Singh @ Chhotu @ Abhishekh, who appeared in the proceedings through video conferencing, and also identified the accused Vicky Kumar @ Vicky @ Rajkumar, and stated that they were tenants in her house. After some time, they fled away from her house. In cross-examination, she stated that she did not know the names of all her tenants and she has not given any details of her tenants to the police. She identified the accused Vicky Kumar @ Vicky @ Rajkumar before the Tahsildar in the TIP. However, she further stated that she did not know about any incident of robbery or theft.
16. PW-5, Nitin Patel, is the Branch Manager at ICICI Bank, Raigarh, on the date of the incident. At the time of the incident, he was at Raipur. He was informed by the Deputy Branch Manager about the robbery. He immediately came to Raigarh by car and gave the footage of CCTV to the police, which was recorded in his computer in the bank. In his

cross-examination, he stated that the police has not seized his mobile phone with respect to the information received by him about the incident. The computer installed in the bank was managed by the Deputy Branch Manager, and if police wanted to get the details, they could have seized the CCTV footage from the Deputy Branch Manager. On the date when he was on leave, Rohit Bhutra, Deputy Branch Manager, was competent to run the computer of the bank. He himself copied the CCTV footage to a hard disk and gave it to the police. There is no panchnama prepared in his presence that the video footage was tallied with the original data.

17. PW-6, Shailendra Rathiya, a petrol pump employee, has stated that on the date of the incident he was in the bank and stated about the incident. He too has stated that he identified one accused, but he could not name him. When a leading question was asked from him, he denied the suggestion. When he was asked to identify the accused persons, he also could not identify the accused who were present in the Court.
18. PW-7, M. Rajesh Kumar, also has not identified accused Subodhkant Singh @ Chhotu @ Abhishekh and Vicky Kumar @ Vicky @ Rajkumar, though he stated about the incident and the manner in which the incident occurred, but has not identified any of the accused persons.
19. PW-8, Gopichand Patel, and PW-9, Shrikant Singhaniya, have also not been witnesses to the identification of the accused persons.
20. PW-11, Rafiq Mohd. Khan, stated in his evidence that he identified the accused Saiyyad Jafar @ Chhotu Khan @ Abhishekh and Vicky Kumar @ Vicky @ Rajkumar, and also identified Subodhkant Singh @ Chhotu @ Abhishekh, whose photographs are pasted in the arrested memo.

He also stated that the accused Vicky Kumar @ Vicky @ Rajkumar gave his memorandum statement, which is Ex.P/13 and Ex.P/14, and seizure memo Ex.P/15, Ex.P/16, and Ex.P/17. On leading questions being asked, he disclosed about seizure of country-made pistol and other articles from the accused persons. In cross-examination, he stated that he did not tell on which date and time the memorandum and seizure memo were prepared. He admitted that he identified the accused persons by their photographs.

21. PW-12, Laxmikant Marduli, was the Sales Manager at Axis Bank, Mahasamund. He too stated about the incident that occurred on 04.10.2010. The accused persons collected them in a corner of the bank. One of the accused, who wore a cap and spectacles, took the mobile phones of all the persons, switched them off, and kept them in a polythene bag. The accused persons had covered their faces. They took the cash amount in a jute bag and fled away. At the time of identification of the accused persons, he could not identify any of them. When a leading question was asked, he stated that on 03.06.2011, at the time of the test identification conducted at the Tahsil Office, he identified the accused who had been arrested through arrest memo Ex.P/18. In cross-examination, he admitted that at the time of the TIP, he was not sure about the identification of the accused. He also did not disclose their height or the colour of their clothes. From the evidence of this witness, the TIP Ex.P/7 has also not been found proved beyond doubt.
22. PW-13, Ahutosh Upadhayay, is the security guard who identified the accused, Vicky Kumar @ Vicky @ Rajkumar. He stated in his evidence that on the date of the incident, he was the security gunman at ICICI

Bank. During the incident, when he tried to stop the accused persons, someone assaulted him from behind, and he lost consciousness. When he regained consciousness, he tried to contact the police, but the call did not connect. He tried to contact the other gunman, but the accused persons saw him and took him to place where the other persons had been detained in a corner. After committing the offence, the accused persons fled away. In cross-examination, he stated that he disclosed in his police statement about the identification of the accused persons, but if it is there there, he could not tell the reason. Though he identified the accused Vicky Kumar @ Vicky @ Rajkumar, he did not state any specific act or role played by him in the incident.

- 23.** PW-14, Riyajuddin Shekh, have denied the identification of the accused Vicky Kumar @ Vicky @ Rajkumar and also the accused Subodhkant Singh @ Chhotu @ Abhishekh. He stated in his evidence that at the time of the incident, he was an executive in Mahindra Finance Company, and was present in the bank. One accused, on the gunpoint, took him to the place where other persons were detained at upstairs, while the accused persons committed robbery on the ground floor. After robbery, they fled away. When leading questions were asked, he denied identification of the accused persons. From the evidence of this witness, the identification of the accused persons has not been established.
- 24.** PW-15, Alka Pandey, is a witness to the TIP. However, though she supported the incident of robbery, she did not support the identification of the accused. Even when leading questions were asked, she has not supported the prosecution case.

25. PW-17, Ramdayal Patel, is the Assistant Grade-III working in the Office of the District Magistrate, Raigarh, who proved the sanction for prosecution issued by the District Magistrate for the offence under Sections 25 and 27 of the Arms Act.
26. PW-18, Neeraj Singh Chouhan, is another witness of the TIP. However, he too have not supported the prosecution case regarding identification of the accused.
27. PW-19, Sitaram, PW-20, Jitendra Gupta, and PW-21, Alok Tumsare, also have not identified the accused persons Saiyyad Jafar @ Chhotu Khan @ Abhishekh, Subodhkant Singh @ Chhotu @ Abhishekh, and Vicky Kumar @ Vicky @ Rajkumar.
28. PW-23, Ajay Balani, is also one of the witnesses of the TIP. However, he also not supported the prosecution case, and has not identify the accused, and denied the TIP conducted in his presence.
29. PW-24, Amit Kumar Shrivastava, Tahsildar, who conducted the TIP, stated in his evidence that on 09.05.2011 he conducted the TIP of the accused Saiyyad Jafar @ Chhotu Khan @ Abhishekh, who was identified by witnesses Neeraj, Rohit Bhutra, Alka Mishra, Laxmikant Marduli, Sakra Bai, and Ajay Balani. After their identification, the TIP memo Ex.P/5 was prepared. He also conducted the TIP of Vicky Kumar @ Vicky @ Rajkumar on 23.05.2011, and he was identified by the witnesses Rohit Bhutra and Sakra Bai, and his TIP is Ex.P/6. Further, on 03.06.2011, he conducted the TIP of Subodhkant Singh @ Chhotu @ Abhishekh, who was identified by the witnesses Rohit Bhutra and Smit Sheetal, and his TIP is Ex.P/7. In cross-examination, he admitted that he has not issued any notice to the persons who mixed with the accused persons. Even the physique and other details

of their bodies were not mentioned in the TIP. Their sequence of standing was also not mentioned. The memo issued to him for conducting the TIP was not annexed in the case. Though this witness proved the TIP memos Ex.P/5, Ex.P/6, and Ex.P/7, but the witnesses to the TIP have not supported his evidence with respect to identification of the accused persons.

30. PW-25, Ritesh Shrivastava, was the Branch Manager of Reliance Insurance Company. At the time of the incident, he was waiting for his friend near the gate of ICICI Bank, and after some time, four persons came out from the bank premises carrying a bag and fled away on a motorcycle. He is neither a witness of the TIP nor of the incident inside the bank.
31. PW-27, Devika, is also said to be a witness of the TIP, but she could not identify them as has been deposed by her. She was an officer employed at ICICI Bank, Raigarh, and was in charge of operational activities of the bank. She stated that the accused persons controlled them on gunpoint, took them to the second floor, and confined them in a corner of the bank. She and Rohit were asked to open the bank vault. She was taken towards her drawer for the keys of the vault at gunpoint, and she opened the vault. Thereafter, the accused persons collected the cash from the vault in 3–4 bags and fled away. Though she supported the incident of robbery in the bank, but with respect to the identification of the accused persons, she has not supported. She could not identify any of the accused persons. The other witness or the police authorities who conducted the part of investigation on their part.
32. PW-34, Akash Verma, stated in his evidence that he identified the accused Saiyyad Jafar @ Chhotu Khan @ Abhishekh and also

identified Subodhkant Singh @ Chhotu @ Abhishekh from photographs annexed in their arrest memo Ex.P/18. He also identified the accused Vicky Kumar @ Vicky @ Rajkumar from photographs annexed in his arrest memo Ex.P/41. He was in the bank to deposit his amount on the date of incident and narrated about the manner in which the incident took place in the bank. He further stated that the accused, who is present in the court, were involved in the offence of robbery and the other accused persons, whose photographs were annexed in the arrest memos, were also involved in the offence. After commission of the offence of robbery, the accused persons fled away by hurling threat that if anyone would show their cleverness, they will see them. When the leading questions were asked from this witness, he stated about the memorandum statement given by the accused Saiyyad Jafar @ Chhotu Khan @ Abhishekh Ex.P/12 and seizure of motorcycle, Rs. 50,000/- cash and one country made pistol and one cartridge vide seizure memo Ex.P/15 from him. He also proved the memorandum statement Ex.P/13 of accused Vicky Kumar @ Vicky @ Rajkumar and seizure of his country-made pistol, motorcycle Ex.P/16. He also proved the memorandum of accused Subodhkant Singh @ Chhotu @ Abhishekh Ex.P/14 and seizure of his motorcycle Ex.P/17. In cross-examination he admitted that he was not acquainted with the accused persons. When they were taken to upstairs, the accused persons were covered their face, subsequently, they removed the gamcha from their faces. He admitted that he has no account in the ICICI Bank but he had gone there to deposit amount of other account holder. There is omission in his police statement Ex.D/2 that he disclosed to the police that 4 persons entered into the bank. He admitted that the house from

which the motorcycle, Rs. 50,000/- cash and country made pistol seized from the accused Saiyyad Jafar @ Chhotu Khan @ Abhishekh, his mother, father, brother and sister were also residing in the same house. He further stated that he did not know about how many rooms are there in the house of accused Vicky Kumar @ Vicky @ Rajkumar is the resident of Ranchi, Subodhkant Singh @ Chhotu @ Abhishekh is the resident of Nalanda, Bihar in their house their parents and relative are also residing. They had gone to the houses of the accused persons many time, he admitted that through the seizure memo Ex.P/15 and Ex.P/16 what articles were seized he did not know.

33. PW-35, Shushanto Banerjee, is the Investigating Officer who conducted the investigation and proved the documents which he prepared during the investigation. However, the witnesses have not supported the prosecution case regarding identification of the accused persons, and the involvement of the present accused persons were shaky though the commission of the robbery in the bank has been proved by the witnesses.
34. The learned trial Court, after considering the evidence on record, concluded that the identification of the accused persons could not be proved by the prosecution that they were involved in the commission of robbery in the bank and looted the huge sum from the bank. Though the offence of robbery was proved, however, the identification of the persons involved in the offence is required to be proved beyond reasonable doubt. The learned trial Court, in absence of sufficient evidence regarding the identification of the accused persons who were involved in commission of the offence, acquitted the accused persons/respondents by giving them the benefit of doubt. From the

entire evidence produced by the prosecution this Court is also concurs with the finding recorded by the learned trial Court that the involvement of the present accused persons in the offence in question could not be proved by the prosecution beyond reasonable doubt. The evidence of the witnesses with respect to the identification are either inconclusive or shaky and they are not able to implicate the present accused persons in the offence in question.

35. It is settled principles of law that prosecution has Burden to prove its case beyond reasonable doubt and where two views are possible, arising based on the same evidence, the view which is favoruable to the accused should be taken into consideration and the accused should be given benefit of doubt. In the matter of **Digambar Vaishnav (Supra)** it has been held as under :

“19. It is also well-settled principle that in criminal cases, if two views are possible on evidence adduced in the case, one binding to the guilt of the accused and the other is to his innocence, the view which is favourable to the accused, should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence [See Kali Ram v. State of Himachal Pradesh, (1973) 2 SCC 808].

36. The Supreme Court in case of **Madhu Vs. State of Kerala, 2012 (2) SCC 399** has held in paragraph 5 as under:

“5. The care and caution with which circumstantial evidence has to be evaluated stands recognized by judicial precedent. Only circumstantial evidence of a very high order can satisfy the test of proof in a criminal prosecution. In a case resting on circumstantial evidence, the prosecution must establish a complete unbroken chain of events leading to the determination that the inference being drawn from the evidence is the only inescapable conclusion. In the absence of convincing

circumstantial evidence, an accused would be entitled to the benefit of doubt.”

37. In the matter of ***Nagendra Sah Vs. State of Bihar, 2021 (10) SCC 725*** in paragraphs 17 and 18 replying upon the golden principles enumerated in case *Sharad Birdhichand Sarda Vs. State of Maharashtra, 1984 (4) SCC 116*, the Supreme Court has held as under:

“17. As the entire case is based on circumstantial evidence, we may make a useful reference to a leading decision of this Court on the subject. In the case of *Sharad Birdhichand Sarda v. State of Maharashtra*², in paragraph 153, this Court has laid down five golden principles (Panchsheel) which govern a case based only on circumstantial evidence. Paragraph 153 reads thus :-

“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned ‘must or should’ and not ‘may be’ established. There is not only a grammatical but a legal distinction between ‘may be proved’ and “must be or should be proved” as was held by this Court in *Shivaji Sahabrao Bobade & Anr. v. State of Maharashtra* where the following observations were made:

19.....Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between ‘may be’ and ‘must be’ is long and divides vague conjectures from sure conclusions.

(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.” (emphasis added).

38. From the consideration of the evidence which came on record, it would reveal that the identification of the present accused persons have not been proved by the prosecution for conclusively reaching to the conclusion that it were the accused persons who have committed offence. The judgment passed by learned trial Court is one of the plausible consideration on record which does not suffers from any perversity or infirmity.

39. Applying the law governing the scope of interference in an appeal acquittal, the Hon’ble Supreme Court in the case of “**State of Rajasthan Vs. Kistoor Ram**” reported in **2022 SCC OnLine SC 984**, has held as follows:-

“8. The scope of interference in an appeal against acquittal is very limited. Unless it is found that the view taken by the Court is impossible or perverse, it is not permissible to interfere with the finding of acquittal. Equally if two views are possible, it is not permissible to set aside an order of acquittal, merely because the Appellate Court finds the way of conviction to be more probable. The interference would be warranted only if the view taken is not possible at all.”

40. The Hon’ble Supreme Court in the matter of **Jafarudheen and Ors Vs. State of Kerala, (2022) 8 SCC 440**, has considered the scope of interference in appeal against acquittal in judgment at Para 25 which reads as under:

“25. While dealing with an appeal against acquittal by invoking Section 378 Cr.P.C. the appellate court has to consider whether the trial court’s view can be termed as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption

of innocence in favour of the accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such as double presumption that ensures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

- 41.** Considering the evidence available on record as well as law the laid down by Hon’ble Supreme Court in the aforesaid cases. This Court is of the considered opinion that the complainant has failed to make out any ground to interfere with the impugned order of acquittal passed by learned trial Court particularly in view of the aforesaid judgments passed by Hon’ble Supreme Court.
- 42.** Accordingly, this Court does not find any merit in the acquittal appeal and the same is hereby **dismissed**.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Alok