

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL NO. 612 of 2012****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE SANJEEV J.THAKER**

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Approved for Reporting	Yes	No
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STATE OF GUJARAT

Versus

PRAKASHBHAI NARANBHAI PATHAK & ORS.

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Appearance:

MS SHRUTI PATHAK, APP for the Appellant - State

MS AMRITA AJMERA(5204) for the Opponent(s)/Respondent(s) No. 1,2,3

RULE SERVED for the Opponent(s)/Respondent(s) No. 1,2,3

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CORAM: HONOURABLE MR.JUSTICE SANJEEV J.THAKER**Date : 05/12/2025****ORAL JUDGMENT**

1.1 Feeling aggrieved by and dissatisfied with the judgment and order of acquittal dated 01.02.2012 passed by the learned Sessions Judge, Surendranagar, in Sessions Case No.55 of 2010 for the offences punishable under Sections 306 read with Section 114 of the Indian Penal Code, the appellant – State of Gujarat has preferred this appeal under Section 378 of the Code of Criminal Procedure, 1973 (for short, “the Code”).

1.2 It is noted that connected appeal being Criminal

Appeal No.554 of 2012, filed by the appellant - original complainant viz., Rajendrabhai Manuprasad Mehta, has already been withdrawn by the complainant himself on the ground of compromise vide order dated 18.09.2025.

2. The prosecution case as unfolded during the trial before the lower Court is that, since the marriage life of the deceased – Pareshbhai was not running smoothly since last four years; and that accused No.2 was not listening her husband and she was listening and doing as per say of accused Nos.1 and 3; and that accused No.2 used to go to her parents house in a huff; and that accused No.1 and 3 instigated accused No.2 and quarrel took place between the accused No.2 and the deceased. Because of the said harassment, deceased could not tolerate the same and on 12.04.2009, deceased has committed suicide. Therefore, a complaint is lodged by the brother of the complainant before the Wadhwan Police Station for the offences punishable under Sections 306 and 114 of the Indian Penal Code.

3. After investigation, sufficient *prima facie* evidence was found against the accused person/s and therefore charge-sheet was filed in the competent criminal Court. Since the offence alleged against the accused person/s was exclusively triable by the Court of Sessions, the learned Magistrate

committed the case to the Sessions Court where it came to be registered as Sessions Case No.55 of 2010. The charge was framed against the accused person/s. The accused pleaded not guilty and came to be tried.

4. In order to bring home the charge, the prosecution has examined the witnesses and also produced various documentary evidence before the trial Court, which are described in the impugned judgment.

5. After hearing both the parties and after analysis of evidence adduced by the prosecution, the learned trial Judge acquitted the accused for the offences for which they were charged, by holding that the prosecution has failed to prove the case beyond reasonable doubt.

6. Learned APP for the appellant – State has pointed out the facts of the case and having taken this Court through both, oral and documentary evidence, recorded before the learned trial Court, would submit that the learned trial Court has failed to appreciate the evidence in true sense and perspective; and that the trial Court has committed error in acquitting the accused. It is submitted that the learned trial Court ought not to have given much emphasis to the contradictions and/or omissions appearing in the evidence and

ought to have given weightage to the dots that connect the accused with the offence in question. It is submitted that the learned trial Court has erroneously come to the conclusion that the prosecution has failed to prove its case. It is also submitted that the learned Judge ought to have seen that the evidence produced on record is reliable and believable and it was proved beyond reasonable doubt that the accused had committed an offence in question. It is, therefore, submitted that this Court may allow this appeal by appreciating the evidence led before the learned trial Court.

7. As against that, learned advocate for the respondent/s would support the impugned judgment passed by the learned trial Court and has submitted that the learned trial Court has not committed any error in acquitting the accused. The trial Court has taken possible view as the prosecution has failed to prove its case beyond reasonable doubt. Therefore, it is prayed to dismiss the present appeal by confirming the impugned judgment and order passed by the learned trial Court.

8. In the aforesaid background, considering the oral as well as documentary evidence on record, independently and dispassionately and considering the impugned judgment and order of the trial Court, the following aspects weighed with

the Court :

8.1 The prosecution has examined P.W.1 – Dr.Rajendrakumar A. Acharya vide Exh.9, who had carried out the postmortem of the deceased. The prosecution has examined P.W.2 – Girishchandra Girjashanker Trivedi vide Exh.15 as panch witness. P.W.3 – Jayeh Kantilal Khatri has been examined by the prosecution vide Exh.17, who is a panch witness to the documents pertaining to the bill of the deceased. The prosecution has examined P.W.4 – Ashokbhai Kantilal Shah, as a panch witness, vide Exh.19. Vide Exh.20, the prosecution has examined P.W.5 – Muljibhai Mayabhai.

8.2 The prosecution has examined complainant i.e. P.W.6 – Rajendra Manuprasad Mehta, who is a brother of the deceased, vide Exh.22. In his deposition, it is coming out that there were disputes relating to marital discord between the deceased and his wife and after the marriage of the deceased, he used to stay with the deceased.

8.3 In his deposition, he has also stated that the deceased was being harassed by his wife, mother-in-law, brother-in-law and parents of the brother-in-law. He has also deposed that the wife of the deceased used to go to her parental home on small issues with the deceased, at that

point of time, brother-in-law of the deceased used to call the deceased and that was the reason why the deceased had committed suicide.

8.4 Further, in his deposition, he has also stated that there was also no specific reason for the deceased to commit suicide. The said witness has also stated that the deceased used to often call him and inform him about the day-to-day marital discord between him and his wife. In his cross-examination, the said witness has also stated that he had tried to make the deceased understand, but the deceased was not listening to him. He also stated that the deceased also did not listen to his father and in the dispute between the deceased and his wife - Bela, the deceased did not listen to the advice of his father and his brother i.e. the complainant also.

8.5 With respect to the suicide note, the witness has deposed that the said note was given by a friend of the deceased to the complainant's brother and he had, in turn, given the said note to the complainant. In his deposition, he has also stated that the wife of the deceased used to stay with her mother before four months of the incident.

8.6 The prosecution has examined P.W.7 –

Virendrakumar Mahasukhlal Shah vide Exh.26, who was a friend of the deceased and in his deposition, it is admitted by him that the wife of the deceased had left the deceased at around four months back and was not staying with the deceased.

8.7 With respect to the note, the said witness has stated that the said note was found in a handbag at the residence of the deceased; and that he had handed over the same to the brother of the deceased.

8.8 The brother of the deceased – Dharmendrabhai Manuprasad Mehta, P.W.8, has been examined by the prosecution vide Exh.27. In his deposition, he has also admitted that the wife was not staying with the deceased and was staying at her parental home for last 3-4 months; and that the wife of the deceased was upset and left the matrimonial home, which was also informed before around 4-5 months. Further, the prosecution is not able to prove its case against the accused by examining the friend of the deceased viz., Vikrambhai Anantray Dave – P.W.10, vide Exh.29.

The father of the deceased viz., Manuprasad Chunilal Mehta – P.W.11 has been examined vide Exh.30.

The neighbour of the deceased viz., Rajendra

Jayantilal Sheth – P.W.12 has been examined vide Exh.35 and from the said evidence also, the prosecution is not able to prove that the conduct of the accused was of such nature as likely to drive the deceased to commit suicide.

8.9 With respect to the suicide note at Exh.39, on which the prosecution has relied vis-a-vis if the deposition of the panchas of the panchnama of recovery of the suicide note is taken into consideration, they have turned hostile.

The suicide note is produced at Exh.39. P.W.7 – Virendrakumar Mahasukhlal Shah (friend of the deceased) had not supported the case of the prosecution. Moreover, it has come on record that he was working in DELL company with the deceased. The investigating officer has obtained natural handwriting of the deceased from DELL company. Considering the FSL report of the handwriting expert, which is produced at Exh.44, it transpires that the disputed handwriting and the natural handwriting is written by one and the same writer, but the fact remains that the prosecution has not been able to prove that there was a direct involvement of the accused in commission of offence. Moreover, the prosecution has failed to prove that there was a proximate prior act to clearly find that the suicide was the direct consequence of such continuous harassment, the last proximate incident having finally driven the subject to the

extreme act of taking one's life.

8.10 In the present case, the prosecution has admitted the fact that the accused have not been staying with the deceased and the accused No.2 - Belaben, who is a wife of the deceased, was staying with her mother for the last 3-4 months and therefore, there is no direct nexus or immediate cause for commission of suicide and same would not amount to abetment of commission of said suicide.

8.11 The prosecution has also not been able to prove that the final event in the series that occasioned a larger and sudden impact resulting in the unpredictable act of suicide. Merely because the victim was continuously harassed at and at one point, he or she succumbed to the extreme act of taking his life cannot by itself result in finding a positive instigation constituting abetment. The prosecution is not able to prove that the accused, by their acts and omissions or by continued code of conduct, created such circumstances that the deceased was left with no other option except to commit suicide.

8.12 The trial Court has rightly held that there was no positive evidence on record to prove that the accused by way of the conduct or spoken words, overtly or covertly, actually

aided and abetted or instigated the deceased in such a manner that it leaves no other option for the deceased but to commit suicide.

9.1 In the case of **Mahendra K.C. v. State of Karnataka and another**, [(2022) 2 SCC 129], it has been held by the Hon'ble Supreme Court that the essence of abetment lies in instigating a person to do a thing or the intentional doing of that thing by an act or illegal omission. Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

9.2 In the case of **Mahendra Awase v. State of Madhya Pradesh**, 2025 (1) Crimes 347 (SC), the observations are made with regard to abetment of suicide. It has been held that in order to bring a case within purview of Section 306 IPC, there must be a case of suicide and in commission of said offence, person who is said to have abetted commission of suicide must have played active role by act of

instigation or by doing certain act to facilitate commission of suicide. It has been further observed that the act of abetment by person charged with said offence must be proved and established by prosecution before he could be convicted under Section 306 IPC. It is further observed that to satisfy requirement of instigation, accused by his act or omission or by a continued course of conduct should have created such circumstances that deceased was left with no other option, except to commit suicide.

10. Further, learned APP is not in a position to show any evidence to take a contrary view in the matter or that the approach of the Court below is vitiated by some manifest illegality or that the decision is perverse or that the Court below has ignored the material evidence on record. In above view of the matter, this Court is of the considered opinion that the Court below was completely justified in passing impugned judgment and order.

11. Considering the impugned judgment, the trial Court has recorded that there was no direct evidence connecting the accused with the incident and there are contradictions in the depositions of the prosecution witnesses. In absence of the direct evidence, it cannot be proved that the accused are involved in the offence. Further, the motive

of the accused behind the incident is not established. The trial Court has rightly considered all the evidence on record and passed the impugned judgment. The trial Court has rightly evaluated the facts and the evidence on record.

12. It is also a settled legal position that in acquittal appeal, the appellate court is not required to re-write the judgment or to give fresh reasoning, when the reasons assigned by the Court below are found to be just and proper. Such principle is down by the Apex Court in the case of **State of Karnataka Vs. Hemareddy**, reported in **AIR 1981 SC 1417** wherein it is held as under:

“... This court has observed in Girija Nandini Devi V. Bigendra Nandini Chaudhary (1967)1 SCR 93: (AIR 1967 SC 1124) that it is not the duty of the appellate court when it agrees with the view of the trial court on the evidence to repeat the narration of the evidence or to reiterate the reasons given by the trial court expression of general agreement with the reasons given by the Court the decision of which is under appeal, will ordinarily suffice.”

13. Thus, in case the appellate court agrees with the reasons and the opinion given by the lower court, then the discussion of evidence at length is not necessary.

14. In the case of ***Ram Kumar v. State of Haryana***, reported in ***AIR 1995 SC 280***, Supreme Court has held as under:

“The powers of the High Court in an appeal from order of acquittal to reassess the evidence and reach its own conclusions under Sections 378 and 379, Cr.P.C. are as extensive as in any appeal against the order of conviction. But as a rule of prudence, it is desirable that the High Court should give proper weight and consideration to the view of the Trial Court with regard to the credibility of the witness, the presumption of innocence in favour of the accused, the right of the accused to the benefit of any doubt and the slowness of appellate Court in justifying a finding of fact arrived at by a Judge who had the advantage of seeing the witness. It is settled law that if the main grounds on which the lower Court has based its order acquitting the accused are

reasonable and plausible, and the same cannot entirely and effectively be dislodged or demolished, the High Court should not disturb the order of acquittal."

15. As observed by the Hon'ble Supreme Court in the case of ***Rajesh Singh & Others vs. State of Uttar Pradesh*** reported in ***(2011) 11 SCC 444*** and in the case of ***Bhaiyamiyan Alias Jardar Khan and Another vs. State of Madhya Pradesh*** reported in ***(2011) 6 SCC 394***, while dealing with the judgment of acquittal, unless reasoning by the trial Court is found to be perverse, the acquittal cannot be upset. It is further observed that High Court's interference in such appeal is somewhat circumscribed and if the view taken by the trial Court is possible on the evidence, the High Court should stay its hands and not interfere in the matter in the belief that if it had been the trial Court, it might have taken a different view.

16. In the case of ***Chandrappa v. State of Karnataka***, reported in ***(2007) 4 SCC 415***, the Hon'ble Apex Court has observed as under:

"42. From the above decisions, in our considered view, the following general

principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Criminal Procedure Code, 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. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(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.”

17. Considering the aforesaid facts and circumstances of the case and law laid down by the Hon'ble Supreme Court while considering the scope of appeal under Section 378 of the Code of Criminal Procedure, 1973 no case is made out to interfere with the impugned judgment and order of acquittal.

18. In view of above facts and circumstances of the

case, on my careful re-appreciation of the entire evidence, I found that there is no infirmity or irregularity in the findings of fact recorded by learned trial Court and under the circumstances, the learned trial Court has rightly acquitted the respondents - accused for the elaborate reasons stated in the impugned judgment and I also endorse the view/finding of the learned trial Court leading to the acquittal.

19. In view of the above and for the reasons stated above, the present Criminal Appeal fails to prove its case and the same deserves to be dismissed and is *dismissed*, accordingly. Record & Proceedings be remitted to the concerned trial Court forthwith.

M.H. DAVE

(SANJEEV J.THAKER,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: MAHESHKUMAR HASMUKHLAL DAVE(HC00193), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 05/12/2025 14:29:03