

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL NO. 713 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

THAKOR CHHANAJI PRAHLADJI & ANR.

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Appearance:

MR YUVRAJ BRAHMBHATT, APP for the Appellant - State

BAILABLE WARRANT UNSERVED for the Opponent(s)/Respondent(s) No. 1

NOTICE SERVED for the Opponent(s)/Respondent(s) No. 2

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

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CORAM: HONOURABLE MR.JUSTICE SANJEEV J.THAKER**Date : 09/12/2025****ORAL JUDGMENT**

1. Feeling aggrieved by and dissatisfied with the judgment and order of acquittal dated 06.03.2012 passed by the learned Special Judge (Atrocity), Mehsana, in Special Atrocity Case No.42 of 2010 for the offences punishable under Sections 324, 504, 506(2) and 114 of the Indian Penal Code, Section 3(1)10 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and Section 135 of the Bombay Police Act, the appellant – State of Gujarat has preferred this appeal under Section 378 of the Code of

Criminal Procedure, 1973 (for short, “**the Code**”).

2. The prosecution case, as unfolded during the trial before the lower Court, is that on 17.10.2009, at about 12:00 hours at noon, when the complainant – Sanjaybhai Baldevbhai Nadiya was passing through Ambai Temple situated at Mouje Suraj Village, the accused sat near the temple and on seeing the complainant, he started abusing the complainant giving him foul abuses. However, the complainant asked the accused not to give such foul abuses. On hearing so, the accused got excited and started shouting at the complainant saying abusive language towards his caste and saying to, the accused took out knife and tried to give blow to the complainant. However, to save his skin, the complainant raised his hand and therefore, the accused got injury on his right hand palm. Thus, the accused humiliated the complainant in public pointing out him by saying abusive language towards his caste, knowing fully well that the complainant hails from lower community and thereby committed the offences. Therefore, the complainant lodged a complaint against the present accused with the Kadi Police Station being C.R.-I No.271 of 2009 for the offences punishable under Sections 324, 504, 506(2) and 114 of the Indian Penal Code, Section 3(1)10 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and

Section 135 of the Bombay Police Act.

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 for the offences as alleged. 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 Special Atrocity Case No.42 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. Though served, none appears for the respondents, including the original complainant.

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 – Sanjaybhai Baldevbhai Nadia vide Exh.11. From his evidence, it transpires that the complainant has not given any name of person; and that he has also not given the description of weapon.

8.2 The prosecution has also examined P.W.2 – Baldevbhai Madhabhai Nadia vide Exh.13. He is not an eye-witness and in his deposition, the prosecution has not been able to prove that he was present at the place of offence. He has stated that he was at his residence and he was not an eye-witness to the said incidence. He has also deposed that there are cross cases going on between the parties at Kadi Court.

8.3 The panch witness of the weapon has been examined vide Exhs.15 and 18 as P.W.3 – Mehbubhai Jumabhai Mansuri and P.W.4 – Taufiq Abdulbhai Mansuri and the said witness have not supported the case of the prosecution.

8.4 Vide Exh.19 and Exh.21, the prosecution has examined P.W.5 – Thakor Dineshji Sonaji and P.W.6 –

Shambhuji Karshanbhai Thakor, who are the panch witnesses of scene of offence (Exh.20) and they have also not supported the case of the prosecution.

8.5 Vide Exh.22, the prosecution has examined P.W.7 – Shakariben Baldevbhai Nadia, who was also not present at the time of incident. He has stated that her husband and elder son were at the residence.

8.6 P.W.8 – Mangeshbhai Baldevbhai Nadia, who has been examined vide Exh.23, was also not present at the time of incident.

P.W.9 - Dr.Bhaktibhai Varvabhai Prajapati, who has been examined vide Exh.24, has stated that there were minor injuries.

Vide Exh.28, the prosecution has examined P.W.10 – Jagatsinh Hematsinh Darbar to prove the caste certificate.

The photographer has been examined by the prosecution as P.W.11 at Exh.31, who has stated that no panchnama was carried out in his presence.

The injury certificate which is produced vide Exh.27 also does not support the case of the prosecution that the weapon which is alleged to have been used, has been used for the injury.

There are lot of contradictions in the depositions of the prosecution witnesses. The complainant vide Exh.11

has stated that the incident had happened when they were walking near the Ambaji Temple.

8.7 Vide Exh.12, the prosecution witness has stated that the accused were sitting near the temple and on seeing the complainant, they started abusing the complainant. Therefore, there are lot of contradictions in the testimonies of the prosecution witnesses. Moreover, the alleged incident has taken place in a public area and the prosecution has not been able to produce any independent witness.

8.8 The prosecution witnesses who have been examined vide Exhs.22 and 23 are the family members of the complainant and they were no eye-witnesses to the alleged offence.

8.9 The place of offence and the muddmal is also not proved in view of the fact that the panchas have turned hostile. The prosecution has not been able to prove that the accused have assaulted the complainant with the knife. The prosecution has also not been able to prove that the accused have threatened the complainant for their caste.

8.10 Therefore, the prosecution has not proved the case against the accused for the offence as alleged. Moreover, as per the observations made by the Hon'ble Apex Court in the

case of **Sajan Sakhariya Vs. State of Kerala and others reported in AIR 2024 SC 4557**, every insult or intimidation would not amount to an offence under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, unless such insult or intimidation is started at a victim because he is a member of a particular Scheduled Castes or Scheduled Tribes. Therefore, from the allegations made in the complaint, the prosecution has not proved that the accused is guilty of an offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

8.11 The trial Court, while considering the evidences in detail, has observed that the prosecution has failed to prove the case against the accused beyond reasonable doubt. While discussing the evidence in detail, the trial court has found that the only allegation against the accused is of speaking indecent words against the caste of the complainant. The trial Court has gone into the evidence in detail and has come to the conclusion that the accused are not guilty of the alleged offence.

9. 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.

10. 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.

11. 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.”

12. 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.

13. 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."

14. 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 in 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.

15. 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.”

16. 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.

17. 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.

18. 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 09/12/2025 18:39:29