

Reserved On : 23/03/2026
Pronounced On : 08/04/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL NO. 1615 of 2012

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STATE OF GUJARAT

Versus

RAJESH @ GOPI DINESHBHAI @ HABSI CHAUDHARY

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Appearance:

MR. YUVRAJ BRAHMBHATT, APP for the Appellant(s) No. 1

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

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CORAM: HONOURABLE MR. JUSTICE SANJEEV J. THAKER

CAV JUDGMENT

1. Feeling aggrieved by and dissatisfied with the judgment and order of acquittal dated 30.06.2012, passed by the learned 8th Additional District and Sessions Judge, Vadodara in Sessions Case No. 198/2011, for the offences punishable under Sections 324 and 504 of the Indian Penal Code 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 the complainant lodged a complaint alleging that due to prior enmity and dispute, the accused came to the place of residence of the complainant on 08.06.2009 at about 6:00 p.m., abused and threatened the complainant and his family members, and attempted to

assault the complainant with a sword. During the incident, the complainant sustained injuries on his head and his minor brother Dinesh sustained injuries on his right hand while trying to prevent the assault. Both injured were taken for medical treatment. Therefore, the complaint was lodged against the respondent-accused.

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. 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 06 witnesses and also produced 09 documentary evidence before the Trial Court, which are described in the impugned judgment as under:

Oral Evidences

Sr.No.	Exh.No.	Particulars
1.	15	Manoj Shankarbhai Chaudhary
2.	16	Kalidas Shankarbhai Chaudhary
3.	18	Dinesh alis Chako Shankarbhai Chaudhary
4.	19	Gaganbhai Shankarbhai Chaudhary
5.	20	Sujit Bhupatbhai

6.	21	Girish Rajnikant Patel
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Documentary evidences

Sr.No.	Exh.No.	Particulars
1.	12	Written complaint submitted to Police Station for registration of offence.
2.	13	List of documents to be checked.
3.	14	Medical examination of the accused.
4.	16	Report of the incident in question.
5.	23	Panchanama of the seizure of the weapon.
6.	27	Treatment Certificate of the complainant.
7.	31	Copy of hospital vardhi report.
8.	32	Copy of the panchanama of the scene of offence.
9.	33	Copy of Resolution.

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. **Rule served.** None appears on behalf of the respondent/s.

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 mainly relied on the complaint that has been filed by the complainant, which is produced vide Exh-16, as per the said complaint he has stated that on 08.06.2009, at around 6:30 p.m., when he was present, there were some quarrel with Kalaben, and at that time of the said fight, his brothers Manoj and Gagan were present their, and they tried to intervene and stop the fight, and at that time Rajesh Dineshbhai, the accused herein came with a sword, and started shouting and abusing. The complainant and his brothers in the scuffle wherein, he tried to assault the complainant with the sword in his hands, and at that time the brother of the complainant Chako alias Dineshbhai intervenes, and the sword had hit on the head of the complainant, and also on the left hand's finger of his brother Chako, and even Sheetal, who happened to be the sister of the accused was wounded and taken in an ambulance.

8.2 The prosecution has examined the brother of the complainant Manojbhai Chaudhary as PW-1, vide Exhibit-15, in his deposition he has stated that the quarrel between the accused and the complainant was because of fetching the water and about the said incident there were quarrels between the family members of the complainant and the accused. He has stated that he was not present at the time when the incident had taken place, and he was at his village, and had not gone to the hospital. He could not identify the Muddamal sword. Thus, PW-1 has turned hostile and has not supported the case of the prosecution.

8.3 The prosecution has thereafter examined the complainant Kalidas Chaudhary vide Exhibit-16 as PW-2. He has stated that at the time of incident he and his brothers were present at his residence. The said deposition is contrary to the deposition of PW-1 i.e. Manojbhai Chaudhary, who is the brother of the complainant, he has stated that he was not present at the time of incident and was at his village.

8.4 The other brother of the complainant Dinesh alias Chako, has been examined as PW-3, vide Exh-18, in his

deposition he has stated that he and his brother i.e. complainant were the only persons who were present at the time of the incident. The complainant in his deposition states that all his brothers were present at the time of incident and even in the complaint he has stated the said fact, but the present witness Dinesh, who the complainant states to have been injured on his hand does not state that all the brothers were present at the time of incident. The said witness also states that Dinesh Habsi i.e. the father of the accused was present at the time of incident, but the said fact is contrary to what has been stated by the complainant in his deposition. The complainant in his complaint, and deposition does not state that Dinesh Habsi i.e. the father of Rajesh was present at the time of incident and had abused the complainant.

8.5 The said witness also states that after the complainant was injured he was taken to the hospital by his wife. The complainant also in his deposition states that he was taken to the hospital by his wife in a rickshaw, but the said fact is contrary to the oral evidence of the Chief Medical Officer, who has been examined as PW-9, vide Exh-26.

8.6 The said witness Dinesh, whom the complainant states to have been injured does not state that he himself was also injured during the said incident, and states that his brother i.e. the complainant was hit on the head and on the last finger of the left hand. Therefore, there is a contradiction in his oral evidence and in his deposition of complainant.

8.7 The other brother of the complainant Gagan Chaudhary has been examined as PW-4, vide Exh-19, he has stated that he was not present at the time of incident, but in his deposition he also states that Dinesh Habsi and Hitesh Gopi were present at the time of incident. His deposition is also contrary to the deposition of the complainant, wherein the complainant states that all the brothers were present at the time of incident, and does not give the name of Dinesh Habsi to be present at the time of incident, and the present witness PW-4 states that he was not present at the time of the incident, and he states that Dinesh Habsi was present at the time of the incident. Therefore, there is a contradiction in his deposition and of the complainant.

8.8 The prosecution has examined, and has tried to place on record an independent witness, Sujit Bhupatbhai vide Exh-20, as PW-5, as an independent witness he does not support the case of the prosecution and has turned hostile. He states that he has friendly relation with the accused.

8.9 The prosecution has thereafter examined Girish R. Patel as an independent witness vide Exh-21, as PW-6. He has turned hostile and has not supported the case of the prosecution.

8.10 The panchnama of recovery of weapons has been produced vide Exh-23, and the panch witness Sunil Sonwane has been examined as PW-7 vide Exh-22, and Ramnabhai Ishwarbhai has been examined as PW-8, vide Exh-24. Both have turned hostile and have not supported the case of the prosecution.

8.11 The Chief Medical Officer of S.S.G. Hospital, Vadodara, Dr. Jayeshbhai Prajapati has been examined as PW-9, vide Exh-26. In his deposition he states that Prakash Shankarbhai Chaudhary had brought the complainant for

treatment at 18:30 hours. The prosecution has not examined Prakash Chaudhary. The said fact is also contrary to what has been stated by the complainant, and the witnesses of the complainant who states that the complainant was brought to the clinic of the doctor by the wife of the complainant. The wife of the complainant has also not been examined by the prosecution. If the oral evidence of the said witness is taken into consideration, though the incident is alleged to have occurred on 08.05.2009. The said witness i.e. the doctor, has stated that the complainant had given a history of an assault dated 10.05.2009, and the complainant had not given him history of any assault on 08.05.2009. The medical certificate is produced vide Exh-27, dated 10.05.2009. The same also states of assault at 06.00pm on 10.05.2009.

8.12 The Head Constable i.e. Karshan Mangalbhai, who had taken the complaint vide Exh-16 has been examined vide Exh-28 as PW-10. The I.O. Devshankar R. Dhamal has been examined vide Exh-30 as PW-11.

8.13 The Sessions Court has taken into consideration the fact that though the complainant states that Dinesh alias

Chaka was injured during the said incident, he himself has come forward and not stated the said fact. If the complaint of the complainant is taken into consideration which is produced vide Exh-16, the complainant in his complaint has stated that at the time of quarrel the complainant, Manoj, Gagan and Chaka were present, and the fight was because of fetching the water and also for payment of tax, the said facts have not been incorporated in the complaint. If the evidence is taken into consideration, it also transpires that the complainant is an accused in an offence under Section 302 which has been registered at the time of alleged offence.

8.14 The prosecution has also not been able to prove that the accused have committed an offence under Sections 324, 504 of the IPC. In view of the fact of the history that was given by the complainant to the doctor states about 10.05.2009, and there is no complaint with respect to any offence on 10.05.2009.

8.15 There are a lot of contradictions in the fact that all the brothers of the complainant were not present at the time of incident, and also the father of the accused was not

present, as the complainant himself states that all his brothers were present, and the father of the accused was not present, and the brothers of the complainant state that they were not present at the time of incident, and also the father of the accused Dinesh Habsi was not present at the time of incident in view of the same contradiction.

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, I am 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 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.

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.”

17. The Hon'ble Apex Court, in a recent decision, in the case of ***Constable 907 Surendra Singh and Another V/s State of Uttarakhand reported in (2025) 5 SCC 433***, has held in paragraph 24 as under:

“24. It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial Judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.”

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 respondent/s - 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.

ADITYA SINGH

(SANJEEV J.THAKER,J)