

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL NO. 50 of 2011****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**

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Approved for Reporting	Yes	No
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STATE OF GUJARAT
Versus
ARUNBHAI KANJIBHAI VORA & ANR.

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Appearance:

MS JYOTI BHATT ADDITIONAL PUBLIC PROSECUTOR for the Appellant(s)
No. 1

MR MAHESH K POOJARA(5879) for the Opponent(s)/Respondent(s) No. 1,2

MR.KISHAN PRAJAPATI(7074) for the Opponent(s)/Respondent(s) No. 1,2

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**CORAM: HONOURABLE MR. JUSTICE HEMANT M.
PRACHCHHAK**

Date : 12/06/2026

JUDGMENT

1. The present appeal is filed by the appellant - State of Gujarat under Section 378(1)(3) of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C") against the judgment and order dated 05.10.2010 passed by the Additional Sessions Judge and Presiding Officer, Fast Track Court, Rajula at Amreli (hereinafter referred to as "the trial Court") in Sessions Case no. 37 of 2009 whereby, the trial Court acquitted the respondents - accused from the offences punishable under Sections 306 and 114 of the Indian Penal Code (hereinafter referred to as "IPC"). During the pendency of the appeal, respondent no.1 - Arunbhai Kanjibhai Vora passed away on

19.07.2025 and the death certificate issued by the competent authority on 04.08.2025 was produced by learned counsel of the respondent - accused which is taken on record. Therefore, the appeal qua original accused no.1 - respondent no.1 herein was abated. Now, the present appeal remains qua respondent no.2 - only.

2. Short facts of the prosecution case are that the complainant - Ranchhodbhai Popatbhai Sarvaiya, registered his complaint with Dhari Police Station, Amreli, being I-C.R.No.47/09 against the accused persons that the complainant was having three sons namely Chandubhai, Vinubhai and Kanubhai and one daughter namely Rekhaben was married with Devchand and living with her husband. Vinubhai was married to the daughter of Bhikhubhai Mepabhai Makwana, residing at Bagasara, namely Hansaben and they had one minor daughter Janki aged about 9 years. That on 19.06.2009, at about 12:45 P.M, the neighbor of Vinubhai called the complainant and informed that Dhari Police Station had informed that Vinubhai and his daughter Janki aged about 9 years have committed suicide by jumping into Dhari Dam. Thereafter, the complainant and his sons went to the Dhari Government Hospital and found dead body of Janki and on the next day, dead body of Vinubhai was found. Thereafter, the police and complainant went to the scene of offence and found one school bag, shoes, mobile, kerosene tin and one bottle of poison and also found suicide note which was written by the deceased Vinubhai stating that his wife Hansa was having illicit relation with the accused no.1 Arun Vora, residing at Surat, since last 10-12 years and they had caused mental and physical harassment to the deceased Vinubhai and his daughter Janki and also subjected them to cruelty and induced them to commit suicide. Thereby, Vinubhai, the son of complainant and his minor daughter Janki aged about 9 years have

committed suicide by consuming poison and jumping into Dhari Dam. Therefore, the complainant lodged the complaint against the accused persons at Dhari Police Station being I-C.R.No.47/2009. After completion of the investigation, charge sheet was filed against all accused persons and thereafter, committed the said case to the Sessions Court.

2.1 The charges against the accused came to be framed by the trial Court vide Exhibit 3 for the aforesaid offences against the accused. On being explained it to them, the accused have denied having committed any offence. The accused pleaded not guilty to the charges and pleaded for trial and hence, the case was tried by the learned Sessions Judge, Rajula.

3. It appears from the records that to prove the case, the prosecution has examined the following witnesses:-

P.W. No.	Name of Witnesses	Exhibit
1	Dr. Rashmikan Mansukhlal Joshi	19
2	Dr. Subhashgiri Vasantgiri Gosai	27
3	Dilipgiri Balgiri	34
4	Rameshbhai Vashrambhai Katriya	36
5	Ahmedbhai Hamirbhai Sumra	38
6	Kishorbhai Ranchodbhai Kansagra	40
7	Maganbhai Ratnabhai Vala	42
8	Ashokbhai Rajvibhai Chauhan	44
9	Ranchodbhai Papatbhai	48
10	Chandubhai Ranchodbhai Sarvaiya	52
11	Chetanbhai Shyamjibhai Makhvana	53
12	Chandulal Mohanbhai Vaishnav	56

13	Dr. Jagsaran Ramde Srivastav	63
14	Virsinghbhai Motisingh Pargi	68
15	Mrs. Kashmiraben Shaileshbhai Desai	81
16	Pratapsingh Kotaniyabhai Vasava	82

4. In addition to this, the prosecution has also produced the following documentary evidence:

Sr. No.	Particulars	Exhibit
1	P.M. note of the dead body of the girl child Janki.	20
2	Form for sending viscera.	21
3	Letter written by Dhari Police to Medical Officer, Dhari to perform P.M. of the dead body of Janki.	22
4	Post-mortem form. (Girl child Janki)	25
5	Letter written by Medical Officer, Dhari to Medical College, Bhavnagar to perform further P.M. of the dead body of Vinubhai Ranchhodbhai.	28
6	Post-mortem form. (Vinubhai Ranchhodbhai)	29
7	Inquest panchnama. (Vinubhai Ranchhodbhai)	30
8	P.M. note of the deceased Vinubhai Ranchhodbhai (incomplete, performed at Dhari Government Hospital).	31
9	Panchnama of the place of incident.	35
10	Panchnama regarding the seizure of the chits written by the deceased father and daughter in their own handwriting and their natural handwriting which was found.	39
11	Panchnama regarding the seizure of the natural handwriting of the deceased Vinubhai Ranchhodbhai.	42
12	Complaint.	49
13	Order of investigation.	57, 58
14	Complaint lodged by the accused Hansaben, W/o Vinubhai on 19/06/2009.	59, 60

15	Letter written by the Superintendent of Police, Amreli to Medical College, Bhavnagar to perform P.M. of the dead body of the deceased Vinubhai Ranchhodbhai and give an opinion.	64
16	P.M. note of the deceased Vinubhai Ranchhodbhai. (Medical College, Bhavnagar)	65
17	Letter written by Medical College, Bhavnagar to PSI, Dhari to take a water sample from the place of incident and send it to the Forensic Science Laboratory, Junagadh for a "Diatom" test.	66
18	Letter regarding sending the sample collected by Medical College, Bhavnagar to F.S.L., Junagadh.	67
19	Inquest panchnama. (Girl child Janki)	69
20	Receipt of handing over the dead body. (Girl child Janki)	70
21	Letter regarding sending the muddamal to the Regional Forensic Science Laboratory, with receipt.	71,72,73
22	Analysis report of the Regional Forensic Science Laboratory. (with yadi)	74 to 77
23	Acknowledgment letter of receipt of documents sent by the Superintendent of Police, Amreli to the Directorate of Forensic Science, Handwriting and Photographic Bureau, Gandhinagar.	78/1
23	Opinion given regarding the documents sent by the Superintendent of Police, Amreli to the Directorate of Forensic Science, Handwriting and Photographic Bureau, Gandhinagar.	78/2
24	Letter written by the Superintendent of Police, Amreli to the Deputy Chief Handwriting Expert and Technical Manager, Gandhinagar to examine the handwriting of the documents and give an opinion.	83
25	Letter written by PSI, Dhari to the Handwriting Expert, Gandhinagar to examine the documents and give an opinion.	84
26	Check list.	85

27	Lined notebook paper with writing, received by the handwriting expert with the report as a disputed document.	86
28	Laminated lined notebook paper with writing, received by the handwriting expert with the report as a disputed document.	87
29	Bill with the signature of the deceased Vinubhai Ranchhodbhai and card regarding the work at the diamond factory as natural handwriting for comparison with the disputed writing.	88,89
30	Book sent for examination containing writings from different places in a notebook of the deceased Janki.	90
31	Note of reasons for the handwriting expert to arrive at the opinion.	91

5. After closure of the evidence, the statements of the accused under section 313 of the Criminal Procedure Code, 1973 have been recorded wherein he denied of having committed any offence and has stated that they are innocent.

6. After hearing both sides and considering the evidence on records, the trial Court, by impugned judgment and order has acquitted the accused from all the charges levelled against them.

7. Being aggrieved and dissatisfied with the aforesaid judgment and order of acquittal, the appellant - State of Gujarat has preferred this Appeal.

8. Heard Ms.Jyoti Bhatt, learned Additional Public Prosecutor appearing for the appellant - State of Gujarat and Mr. Mahesh Poojara, learned counsel and Mr. Kishan Prajapati, learned counsel

appearing for the respondents – accused at length.

9. Ms. Bhatt, learned Additional Public Prosecutor appearing for the appellant – State of Gujarat has submitted that the impugned judgment and order of acquittal passed by the trial Court is contrary to law and evidence on record and against the principles of justice, and therefore, the same deserves to be quashed and set aside. She has submitted that the prosecution has examined 16 witnesses and produced 31 documentary evidences in support of its case, however, the trial Court has not considered these evidences on record. She has submitted that the trial Court has erred in holding that the prosecution failed to prove that the accused no.2 i.e. wife of deceased was having illicit relation with the accused no.1 and they caused mental and physical harassment to the deceased and his minor daughter and hence, induced them to commit suicide. She has submitted that the trial Court has not properly appreciated the evidence of the witnesses being Chandubhai Ranchhodbhai Sarvaiya, brother of the deceased and Chetanbhai Shamjibhai Makwana who have supported the case of the prosecution with regard to the suicide induced by the respondents. She has submitted that the trial Court has not considered the evidence of the doctor who carried out post mortem, the evidence of the Scientific Officer who produced the FSL report, the evidence of the handwriting expert who examined the handwriting of the letter and the evidence of the Investigating Officer and thus, the trial Court has committed a grave error in disbelieving the prosecution case while passing the impugned judgment and order of acquittal. She has submitted that the trial Court has committed an error in observing that no independent witnesses have been examined by the prosecution to prove the case before the trial Court

and thus, the impugned judgment and order of acquittal is illegal, erroneous and unjust. Over and above the grounds agitated in the memo of appeal, learned Additional Public Prosecutor has urged that the appeal deserves to be allowed and the judgment and order of acquittal deserves to be quashed and set aside.

10. On the other hand, Mr.Poojara, learned counsel for the respondents has submitted that the trial Court has rightly passed the impugned judgment and order of acquittal and there is no any illegality or any infirmity in the impugned judgment and order and, therefore, no interference is required to be called for. He has supported the reasonings stated by the trial Court and submitted that the respondents have been falsely roped in the alleged offence. He has submitted that the prosecution has failed to prove the charges levelled against the respondents before the trial Court by leading cogent and material evidence and therefore, the appeal being meritless deserves to be dismissed and the judgment and order of acquittal deserves to be confirmed.

11. I have heard the learned counsel appearing for the respective parties and perused the material placed on record. The issue involved in the present appeal is whether the acts of the respondents led the deceased to commit suicide and whether the deceased had no alternative but to take the unfortunate step of jumping into the Khodiyar Dam at Dhari. The present case is based primarily on the alleged chit found on the dead bodies of the deceased - Vinubhai and his daughter, Janki, aged nine years. However, no sufficient or cogent evidence was produced by the prosecution to establish whether the chit was written by the deceased himself or by some other person and

it is noteworthy that the chit was allegedly recovered from the body of the deceased after the body had remained in water for nearly two days, and the dead body was recovered in suspicious circumstances. The witnesses have given contradictory versions regarding the recovery of the chit whereby, one witness stated that it was recovered from the pocket of the deceased's pants, whereas another witness stated that it was recovered from the pocket of his shirt. An attempt was made to compare the handwriting on the chit with old handwriting samples of the deceased dating back to the years 2000 and 2008 and based on those samples, the Investigating Officer sought to establish a match. However, the FSL report merely revealed that both chits were written by the same person. Then, the question arises that there was no reason to put the chit in the clothes of the deceased daughter Janki because Janki, being only nine years old and studying in the fourth standard, she may have been capable of writing simple sentences. There was no concurrent proof produced by the prosecution that the chit was written by the deceased. Even the evidence of PW 15 vis-a-vis PW 16 clearly creates doubt as to whether the handwriting on the chit was in fact that of the deceased and there was no conclusive opinion expressed by the handwriting expert whether the handwriting belonged to the deceased Vinubhai. Even according to the prosecution, the chit was kept inside a purse or plastic cover and it was found completely intact. This circumstance itself creates serious doubt. If the deceased had remained submerged in the dam for two days, it is doubtful whether a paper could remain in such an intact condition. There was no evidence explaining how the chit was preserved in that state. Moreover, the writing on the chit remained completely legible and had not been smudged by water. Therefore, without there being any cogent and material evidence, the

trial court has rightly passed the order of acquittal.

11.1 The prosecution also advanced a theory that the deceased - Vinubhai had first administered poison to his daughter and thereafter both had jumped into the Khodiyar Dam. However, this theory was not supported by the FSL report. In fact, no poisonous substance was detected from the body. After considering the entire evidence led by the prosecution, the trial Court addressed the contentions raised by the prosecution and, while recording reasons for acquittal from paragraph 29 onwards, correctly acquitted the respondents of the offences punishable under Section 306 read with Section 114 of the Indian Penal Code. The witnesses also deposed before the trial Court that, until the alleged chit surfaced, they had no knowledge of any illicit or extramarital relationship between accused No. 1 and accused No. 2. The father of the deceased, Ranchhod Popatbhai, PW-9 at Exhibit 48, admitted that he was unaware of any such illicit or extramarital affair involving his daughter-in-law. The parties resided in a small village where such relationships are unlikely to remain concealed from the community. This circumstance itself casts serious doubt on the allegations put forward by the prosecution and undermines the credibility of the story advanced by them. Therefore, under such circumstances, the trial Court has rightly disbelieved the evidence led by the prosecution while passing the impugned judgment and order. In my opinion, the impugned judgment and order is just and proper and is in consonance with the settled principles of law as enunciated by the Hon'ble Supreme Court.

12. It is well settled by catena of decisions that an Appellate Court has full power to review, re-appreciate and reconsider the evidence

upon which the order of acquittal is founded. However, Appellate Court 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 their innocence is further reinforced, reaffirmed and strengthened by the trial Court.

13. Further, 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. Further, while exercising the powers in appeal against the order of acquittal, the Court of appeal would not ordinarily interfere with the order of acquittal unless the approach of the lower Court is vitiated by some manifest illegality and the conclusion arrived at would not be arrived at by any reasonable person and, therefore, the decision is to be characterized as perverse. Merely because two views are possible, the Court of appeal would not take the view which would upset the judgment delivered by the Court below. However, the Appellate Court has a power to review the evidence if it is of the view that the conclusion arrived at by the Court below is perverse and the Court has committed a manifest error of law and ignored the material evidence on record. A duty is cast upon the Appellate Court, in such circumstances, to re-appreciate the evidence to arrive to a just decision on the basis of material placed on record to find out whether the accused are connected with the commission of the crime with which he is charged.

14. The scope and principles are enunciated by the Hon'ble Apex Court in case of **Chandrappa and others Vs. State of Karnataka** reported in **(2007) 4 SCC 415**, more particularly **paragraph Nos. 42 and 43**, which was subsequently re-affirmed by the Hon'ble Apex Court in **Rajesh Prasad Vs. State of Bihar and another**, reported in **[2022] 3 SCC 471**, wherein, the Hon'ble Apex Court has enunciated the general principles in case of acquittal, more particularly in **paragraph No. 26** the general principles are set out by the Hon'ble Apex Court based upon various decisions of the Hon'ble Apex Court. Then in case of **Babu Sahebagouda Rudragoudar Vs. State of Karnataka, reported in AIR 2024 SC 2252 = (2024) 8 SCC 149**, the Hon'ble Apex Court has dealt with the similar issue, more particularly, in **paragraph Nos. 37 to 40**. Hence, we are in complete agreement with the findings recorded by the trial Court.

15. It is also worthwhile to refer to the recent decision of the Hon'ble Supreme Court in the case of **Ramesh vs. State of Karnataka, reported in [2024] 9 SCC 169**, wherein the Hon'ble Supreme Court has held and observed in paras-20 and 21 as under:-

"20. At this stage, it would be relevant to refer to the general principles culled out by this Court in Chandrappa and others vs. State of Karnataka , regarding the power of the appellate Court while dealing with an appeal against a judgment of acquittal. The principles read thus:

"42. (1) An appellate court has full power to review, reappreciate 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. Such phraseologies are more in the nature of “flourishes of language” to emphasize 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.

21. In Rajendra Prasad v. State of Bihar, a three-Judge Bench of this Court pointed out that it would be essential for the High Court, in an appeal against acquittal, to clearly indicate firm and weighty grounds from the record for discarding the reasons of the Trial Court in order to be able to reach a contrary conclusion of guilt of the accused. It was further observed that, in an appeal against acquittal, it would not be legally sufficient for the High Court to take a contrary view about the credibility of witnesses and it is absolutely imperative that the High Court convincingly finds it well-nigh impossible for the Trial Court to reject their testimony. This was identified as the quintessence of the jurisprudential aspect of criminal justice. Viewed in this light, the brusque approach of the High Court in dealing with the appeal, resulting in the conviction of Appellant Nos. 1 and 2, reversing the cogent and well-considered judgment of acquittal by the Trial Court giving them the benefit of doubt, cannot be sustained.”

16. Considering the entire evidence on record, it clearly appears that there is no credible evidence to connect the present accused with the alleged crime and the evidence on record is not so convincing to prove beyond reasonable doubt that the accused has committed the alleged crime. Therefore, the accused cannot be convicted on the evidence on record.

17. On perusal of the impugned judgment and order, it clearly transpires that the trial Court has not committed any error of fact and law in appreciating the evidence on record and in acquitting the accused from the charges levelled against them. Even on re-appreciation of the evidence, it clearly transpires that the prosecution has miserably failed to prove the charge levelled against the accused beyond reasonable doubt. Therefore, the impugned judgment and order of the trial Court is sustainable and the present appeal is liable to be dismissed.

18. In view of the above, the present appeal is devoid of merits and it deserves to be dismissed. Resultantly, it is dismissed. The impugned judgment and order of acquittal passed by the trial Court is hereby confirmed. Bail bond stands cancelled. Record and proceedings be sent back to the concerned Trial Court forthwith.

(HEMANT M. PRACHCHHAK,J)

ANUSRI