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HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

[Reserved on 07.09.2026]

[Delivered on 23.09.2026]

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

GOVERNMENT APPEAL No. - 80 of 2026

[Neutral Citation No. - 2026:AHC-LKO:67480-DB]

State of U.P. Thru. Prin. Secy. Home Deptt. Lko.

◆..Appellant(s)

Versus

Kishor Alias Ram Kishor and another

◆..Respondent(s)

Counsel for Appellant(s)

:

G.A.,

Counsel for Respondent(s)

:

Court No. - 11

HON'BLE ABDUL MOIN, J.

HON'BLE PRAMOD KUMAR SRIVASTAVA, J.

1. Heard Sri Umesh Verma, learned AGA alongwith Sri Arunendra, Sri Badrul Hasan, Sri Anurag Verma, Sri S.N. Tilhari, Sri Pawan Kumar and Ms. Meera Tripathi, learned counsels appearing for the appellant-State.

2. The present government appeal has been preferred by the State against the judgment and order dated 26.09.2025 passed by Additional Sessions Judge/Special Judge (Gangster Act), court no. 3, Lakhimpur Kheri passed in the following Sessions Trial numbers:-

(i) Sessions Trial No. 132 of 2009 arising out of Case Crime No. 1049 of 2007, under Sections 392, 302 IPC, Police Station Phulbehad, District Lakhimpur Kheri, whereby accused-respondents, namely, Kishore @ Ram Kishore and Anoop Kumar have been acquitted from the charges under Sections 392 and 302 of the Indian Penal Code (hereinafter referred as **IPC**).

(ii) Sessions Trial No. 133 of 2009 arising out of Case Crime No. 1067 of 2007, under Sections 3/25 of the Arms Act, Police Station Phulbehad, District Lakhimpur Kheri, whereby the accused-respondent, namely, Kishore @ Ram Kishore has been acquitted from the charges under Sections 3/25 of Arms Act.

(iii) Sessions Trial No. 134 of 2009 arising out of Case Crime No. 1068 of 2007, under Sections 4/25 of Arms Act, Police Station Phulbehad, District Lakhimpur Kheri, whereby the accused-respondent, namely, Anoop Kumar has been acquitted from the charges under Section 4/25 of the Arms Act.

3. Being aggrieved and dissatisfied by the judgment and order of acquittal, the State has filed this appeal.

4. The prosecution story, in brief, is that, on 14.11.2007, the father of the complainant Muneeb Chauhan (deceased), aged about 52 years, had gone to Lakhimpur market for purchasing the fertilizer. On the same day in the evening, when he was returning to his home, on the way nearby Andesh Nagar Farm Colony, two unknown persons met him, who caused death of Muneeb Chauhan by inflicting knife blow. This incident occurred at about 6:00 p.m. in the evening.

5. On the basis of written tehreer Exhibit Ka-1, given by informant Bhola Singh Chauhan, the First Information Report (hereinafter referred as **FIR**) against unknown persons was lodged on the same day at 10:10 p.m.

6. Upon entrustment of the investigation, the Investigating Officer (hereinafter referred as **IO**) Sub Inspector Piyush Dixit visited the place of occurrence and got prepared the inquest report of the deceased and sealed the dead body. The dead body alongwith police papers was sent for autopsy. The IO also collected the blood stained and sample of soil and also collected the belongings of the deceased which were scattered near the dead body of deceased and memo was also prepared. On 20.11.2007 the statement of Rajesh Kumar was recorded, who told the name of accused Kishore alias Ram Kishore and Anoop in the complicity of the alleged offence.

7. On 20.11.2007, Sub Inspector Nand Kumar Tiwari arrested both the accused persons, Kishore @ Ram Kishore and Anoop with country-made pistol of 12 bore, two live cartridges and one knife. In this regard, a case bearing Case Crime No. 1067 of 2007, under Sections 3/25 of Arms Act was registered against accused-respondent Kishore @ Ram Kishore and another case bearing Case Crime No. 1068 of 2007, under Sections 4/25 of the Arms Act was registered against accused-respondent Anoop. The IO recorded the statement of complainant, the witnesses Ram Niwas, Rajesh Kumar and other witnesses. After concluding the investigation, the IO filed the chargesheet against accused persons for the aforesaid offences.

8. After compliance of mandatory provision of Section 207 of the Code of Criminal Procedure (hereinafter referred to as **Cr.P.C.**) the case was committed to the Court of Session, from where it was made over to the Additional Sessions Judge, Court No. 3, Lakhimpur Kheri for disposal according to law.

9. The learned Sessions Judge framed the charges against the accused persons, Kishore alias Ram Kishore and Anoop Kumar in Case Crime No. 1049 of 2007, under Sections 392, 302 of the IPC; in Case Crime No. 1067 of 2007, under Sections 3/25 of Arms Act against Kishore @ Ram Kishore and Case Crime No. 1068 of 2007, under Sections 4/25 of Arms Act against Anoop Kumar: and the same were read over and explained to them, for which they denied and claimed to be tried.

10. In order to prove its case, the prosecution has adduced ocular evidences of Bhola Singh PW-1, SI Piyush Dixit PW-2, SI Jyoti Narayan Tiwari PW-3, Dr. R.P. Agnihotri PW-4, Inspector Nand Kumar Tiwari PW-5 and Head Constable Sunil Kumar PW-6 and also proved the documentary evidence i.e. written Tahrir Exhibit Ka-1, inquest report Exhibit Ka-2, sample of seal Exhibit Ka-3, Photonas Exhibit Ka-4, police From No. 13 Exhibit Ka-5, letter to CMO Exhibit Ka-6, letter to RI Exhibit Ka-7, site plan Exhibit Ka-8, memo of collecting blood stained and sample of soil Exhibit Ka-9, memo of surpurdagi of dead body Exhibit Ka-10, chargesheet under section 392 and 302 of the IPC Exhibit Ka-11, recovery memo of knife Exhibit Ka-12, copy of GD Ka-13, GD Rapat no. 6 Exhibit Ka-14, GD of Kayami of Case Crime No. 1049 of 2007 Exhibit Ka-15, Chik FIR Exhibit Ka-16, postmortem report Exhibit Ka-17.

11. In Sessions Trial No. 133 of 2009, recovery memo Exhibit Ka-18, chik FIR Exhibit Ka-19, Kayami GD Exhibit Ka-20, Naksha Nazri Exhibit Ka-21 and chargesheet against accused Kishore @ Ram Kishore Exhibit Ka-22.

12. In Sessions Trial No.134 of 2009, chargesheet against Anoop Kumar the site plan Exhibit Ka-23, chargesheet against Anoop Kumar under section 4/25 of Arms Act Exhibit Ka-24, material objects i.e. dhoti, underwear, banyan, scarf, shirt as Exhibit Ka-1 to Ka-8 respectively and knife, blood-stained and sample of soil, Exhibit Ka-9 to Ka-11 and FSL report Exhibit Ka-12.

13. Upon closure of prosecution evidence, the statements of accused persons were recorded under Section 313 of the Cr.P.C., wherein they denied all the incriminating evidence and circumstances which emerged out in the testimony of the witnesses and stated that they have falsely been implicated. They adduced neither any oral nor documentary evidence in their defence.

14. After having heard the learned counsel for the parties and perusing the material available on record, the learned trial court found that charges against accused Kishore alias Ram Kishore and Anoop Kumar for the offence under Sections 392, 302/34 of the IPC, against Kishore alias Ram Kishore for the offence under Section 3/25 of the Arms Act and against Anoop Kumar for the offence under Sections 4/25 of the Arms Act were not proved. Consequently, the trial court acquitted them for the offences as aforesaid.

15. The judgment of acquittal was passed by the trial court on the ground that the prosecution version is not innocent since initially FIR was lodged against two unknown persons and after six days of the alleged incident, name of all the accused persons surfaced on the basis of statement of witnesses Ram Niwas and Rajesh. Learned trial court also found that both of the witnesses Ram Niwas and Rajesh were not examined. Only testimony of the witness of fact i.e. complainant PW-1 remains, who is not an eye witness of the alleged incident. Learned trial court also found that the prosecution case rests upon the circumstantial evidence. Out of them one circumstance is that witness Ram Niwas, who had seen the occurrence and raised alarm by saying that accused persons were causing death of the deceased by knife.

16. Another circumstance was that in a liquor shop, witness Rajesh Kumar had heard the conversation between accused persons who were talking about causing of the death of the deceased. Learned trial court also found that Rajesh Kumar was not examined since he had passed away during the course of trial and another witness Ram Niwas had not been examined by prosecution.

17. The learned trial court also indicated that in the statement of PW-1, he had not disclosed the name of the accused persons with regard to causing the death of the deceased. Trial court also pointed out that complainant had not stated that the names of the accused persons were told by witness Ram Niwas and Rajesh Kumar. It was further found by the trial court that the chain of circumstantial evidence is broken. Only on the basis of recovery of alleged weapon, complicity of the accused persons in causing death of the deceased cannot be drawn. The alleged recovery of weapon was not conducted in the presence of any independent witnesses and the alleged weapon i.e. knife is also easily available in the open market which is used for domestic purpose. Under such circumstances, the trial court found that the prosecution could not prove its case beyond reasonable doubt and the accused persons were given benefit of doubt and judgment of acquittal was passed.

18. Challenging the impugned judgment and order, the learned AGAs for the State-appellant have submitted that the trial court has erred in appreciating the evidence on record. They have further submitted that the complainant has fully supported the prosecution case and that the recovery of the alleged weapon used in the crime, has been made on the instance of the accused persons and the accused persons have also confessed their guilt before the Investigating Officer. They have further submitted that witness Rajesh Kumar could not be examined since he had passed away during the course of trial, while another witness Ram Niwas had been won over by the accused persons. They have further submitted that despite the above facts, the prosecution adduced the evidence of the police personnel, testimony of whom cannot be thrown out outrightly. Recovery of the alleged weapon has been proved by the police personnel who were examined as prosecution witnesses. They further submit that the witnesses are intact but the trial court did not consider the facts, evidences and circumstances in correct perspective and passed the impugned judgment and order in mechanical and cursory manner which is not in consonance with the law. The findings recorded by the learned trial court are not one of the possible view. Submission, therefore, is that the judgment and order of acquittal passed by the trial court requires serious consideration and reversal and accused persons herein are liable to be convicted.

19. Learned AGAs for the appellant have also argued that without summoning the trial court's record, it would not be in the interest of justice to decide this appeal. The issue is no longer res-integra having been settled in Government Appeal No. 92 of 2026 in Re; State of U.P. Vs. Sharad Rastogi and 4 others, decided on 18.09.2026, wherein the Division Bench has held that in case leave to appeal has been granted under sub Section (3) of Section 378 of the Cr.P.C, an appeal can still be summarily dismissed under Section 384 of Cr.P.C (now Section 425 of B.N.S.S) after recording reasons for the same and that it is not mandatory to summon the record. Thus, the said argument is rejected.

20. Before proceeding further, it would be appropriate to take note of law on the appeal against acquittal.

21. In the case of Bannareddy and others vs. State of Karnataka and others, (2018) 5 SCC 790, in paragraph 10, the Hon'ble Apex Court has considered the power and jurisdiction of the High Court while interfering in an appeal against acquittal and in paragraph 26 it has been held that "the High Court should not have reappreciated the evidence in its entirety, especially when there existed no grave infirmity in the findings of the trial Court. There exists no justification behind setting aside the order of acquittal passed by the trial Court, especially when the prosecution case suffers from several contradictions and infirmities"

22. In Jayamma vs. State of Karnataka, 2021 (6) SCC 213, the Hon'ble Supreme Court has been pleased to explain the limitations of exercise of power of scrutiny by the High Court in an appeal against an order of acquittal passed by a Trial Court in the following words:

"The power of scrutiny exercisable by the High Court under Section 378, CrPC should not be routinely invoked where the view formed by the trial court was a 'possible view'. The judgment of the trial court cannot be set aside merely because the High Court finds its own view more probable, save where the judgment of the trial court suffers from perversity or the conclusions

drawn by it were impossible if there was a correct reading and analysis of the evidence on record. To say it differently, unless the High Court finds that there is complete misreading of the material evidence which has led to miscarriage of justice, the view taken by the trial court which can also possibly be a correct view, need not be interfered with. This self-restraint doctrine, of course, does not denude the High Court of its powers to re-appreciate the evidence, including in an appeal against acquittal and arrive at a different firm finding of fact."

23. In a judgement of this Court in *Virendra Singh vs. State of UP and others*, 2022 (3) ADJ 354 DB, the law on the issue involved has been considered. For ready reference, paragraphs 10, 11 and 12 are quoted as under:

"10. In the case of *Babu vs. State of Kerala* (2010) 9 SCC 189 : (2010) 3 SCC (Cri) 1179, the Hon'ble Apex Court has observed that while dealing with a judgment of acquittal, the appellate court has to consider the entire evidence on record, so as to arrive at a finding as to whether the views of the trial Court were perverse or otherwise unsustainable. The appellate court is entitled to consider whether in arriving at a finding of fact, the trial Court had failed to take into consideration admissible evidence and/or had taken into consideration the evidence brought on record contrary to law. Paragraphs 12 to 19 of the aforesaid judgment are quoted as under:-

"12. This court time and again has laid down the guidelines for the High Court to interfere with the judgment and order of acquittal passed by the Trial Court. The appellate court should not ordinarily set aside a judgment of acquittal in a case where two views are possible, though the view of the appellate court may be more, the probable one. While dealing with a judgment of acquittal, the appellate court has to consider the entire evidence on record, so as to arrive at a finding as to whether the views of the trial Court were perverse or otherwise unsustainable. The appellate court is entitled to consider whether in arriving at a finding of fact, the trial Court had failed to take into consideration admissible evidence and/or had taken into consideration the evidence brought on record contrary to law. Similarly, wrong placing of burden of proof may also be a subject matter of scrutiny by the appellate court. (Vide *Balak Ram v. State of U.P.* AIR 1974 SC 2165; *Shambhoo Missir & Anr. v. State of Bihar* AIR 1991 SC 315; *Shailendra Pratap & Anr. v. State of U.P.* AIR 2003 SC 1104; *Narendra Singh v. State of M.P.* (2004) 10 SCC 699; *Budh Singh & Ors. v. State of U.P.* AIR 2006 SC 2500; *State of U.P. v. Ramveer Singh* AIR 2007 SC 3075; *S. Rama Krishna v. S. Rami Reddy (D) by his LRs. & Ors.* AIR 2008 SC 2066; *Arulvelu & Anr. Vs. State* (2009) 10 SCC 206; *Perla Somasekhara Reddy & Ors. v. State of A.P.* (2009) 16 SCC 98; and *Ram Singh alias Chhaju v. State of Himachal Pradesh* (2010) 2 SCC 445).

13. In *Sheo Swarup and Ors. King Emperor* AIR 1934 PC 227, the Privy Council observed as under:

"...the High Court should and will always give proper weight and consideration to such matters as (1) the views of the trial Judge as to the credibility of the witnesses, (2) the presumption of innocence in favour of the accused, a presumption certainly not weakened by the fact that he has been acquitted at his trial, (3) the right of the accused to the benefit of any doubt, and (4) the slowness of an appellate court in disturbing a finding of fact arrived at by a Judge who had the advantage of seeing the witnesses...."

14. The aforesaid principle of law has consistently been followed by this Court. (See: *Tulsiram Kanu v. The State* AIR 1954 SC 1; *Balbir Singh v. State of Punjab* AIR 1957 SC 216; *M.G. Agarwal v. State of Maharashtra* AIR 1963 SC 200; *Khedu Mohton & Ors. v. State of Bihar* AIR 1970 SC 66; *Sambasivan and Ors. State of Kerala* (1998) 5 SCC 412; *Bhagwan Singh and Ors. v. State of M.P.* (2002) 4 SCC 85; and *State of Goa v. Sanjay Thakran and Anr.* (2007) 3 SCC 755).

15. In *Chandrappa and Ors. v. State of Karnataka* (2007) 4 SCC 415, this Court reiterated the legal position as under:

"(1) An appellate court has full power to review, re-appreciate 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 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. In *Ghurey Lal v. State of Uttar Pradesh* (2008) 10 SCC 450, this Court re-iterated the said view, observing that the appellate court in dealing with the cases in which the trial courts have acquitted the accused, should bear in mind that the trial court's acquittal bolsters the presumption that he is innocent. The appellate court must give due weight and consideration to the decision of the trial court as the trial court had the distinct advantage of watching the demeanour of the witnesses, and was in a better position to evaluate the credibility of the witnesses.

17. In *State of Rajasthan v. Naresh @ Ram Naresh* (2009) 9 SCC 368, the Court again examined the earlier judgments of this Court and laid down that an "order of acquittal should not be lightly interfered with even if the court believes that there is some evidence pointing out the finger towards the accused."

18. In *State of Uttar Pradesh v. Banne alias Baijnath & Ors.* (2009) 4 SCC 271, this Court gave certain illustrative circumstances in which the Court would be justified in interfering with a judgment of acquittal by the High Court. The circumstances includes:

- i) The High Court's decision is based on totally erroneous view of law by ignoring the settled legal position;
- ii) The High Court's conclusions are contrary to evidence and documents on record;
- iii) The entire approach of the High Court in dealing with the evidence was patently illegal leading to grave miscarriage of justice;
- iv) The High Court's judgment is manifestly unjust and unreasonable based on erroneous law and facts on the record of the case;
- v) This Court must always give proper weight and consideration to the findings of the High Court;
- vi) This Court would be extremely reluctant in interfering with a case when both the Sessions Court and the High Court have recorded an order of acquittal.

A similar view has been reiterated by this Court in *Dhanapal v. State by Public Prosecutor, Madras* (2009) 10 SCC 401.

19. Thus, the law on the issue can be summarised to the effect that in exceptional cases where there are compelling circumstances, and the judgment under appeal is found to be perverse, the appellate court can interfere with the order of acquittal. The appellate court should bear in mind the presumption of innocence of the accused and further that the trial Court's acquittal bolsters the presumption of his innocence. Interference in a routine manner where the other view is possible should be avoided, unless there are good reasons for interference."

24. Hon'ble Apex Court in the case of *Ramesh Babulal Doshi vs. State of Gujarat* (1996) 9 SCC 225 : 1996 SCC (Cri) 972 has observed that while deciding appeal against acquittal, the High Court has to first record its conclusion on the question whether the approach of the trial court dealing with the evidence was patently illegal or conclusion arrived by it is wholly untenable which alone will justify interference in an order of acquittal.

25. The aforesaid judgments were taken note of with approval by Supreme Court in the case of *Anwar Ali and another vs. State of Himachal Pradesh* (2020) 10 SCC 166, *Nagabhushan vs. State of Karnataka* (2021) 5 SCC 222, and *Babu (supra)* in *Achhar Singh vs. State of Himachal Pradesh* (2021) 5 SCC 543."

26. Similar view has been reiterated by Hon'ble Apex Court in *Rajesh Prasad vs. State of Bihar and another*, (2022) 3 SCC 471.

27. On perusal of record, we find that the learned trial court has thoroughly analysed the testimony of prosecution witnesses and specifically discussed that in FIR accused persons are not named, only it is mentioned that the death of the deceased was caused by two unknown persons by inflicting knife blows.

28. We also find that only one witness of fact i.e. the complainant PW-1 has been examined who is not an eyewitness and he did not disclose the name of the accused persons during trial also. There was a recovery of alleged weapon i.e. knife which is easily available in the open market and moreover, the recovery is not substantiated by any public witness.

29. Further, on examination before the court, the complainant Bhola Singh PW-1 has stated that his father Muneeb had gone to Mehevaganj to purchase the fertilizer and when he was returning home on the way he had been killed by some assailants by inflicting knife blows. He categorically admitted that upon getting information he reached on the spot and saw that his father was lying dead. The incident had taken place at about 06:30 p.m. From his testimony it is not revealed as to who had informed him with regard to causing death of his deceased father. Thus, it is apparent that complainant is not the eyewitness of the alleged incident.

30. Another glaring factor is that during the course of investigation, his statement was recorded by the IO, wherein complainant has stated that on the date of alleged incident at about 06:45 PM, one Ram Niwas was raising alarm by saying that two assailants were inflicting blows upon deceased by knife. Then he went to the side of Andhesh Nagar and found that the deceased's body was lying there. Surprisingly when the complainant was produced by the prosecution, he did not disclose this fact before the court, therefore, the statement given by the complainant during investigation has no significance.

31. Even if for the sake of argument, we consider that Ram Niwas may be the eyewitness of the alleged incident, but he could not be examined by the prosecution, therefore, an innocent prosecution version has been prevented to come before the court.

32. The prosecution rests its case on the statement of another witness Rajesh Kumar. It is stated that Rajesh Kumar is the person who had heard the conversation of the accused persons who were talking about causing death of the deceased but this witness has also not been examined since he had passed away during trial. Here it is relevant to mention that when the prosecution rests its case on the basis of circumstantial evidence then it must fulfill parameters as held by Hon'ble Apex Court in several cases.

33. The prosecution has adduced the evidence in the nature of circumstantial evidence. To bring home the guilt of accused on the basis of circumstantial evidence Hon'ble Apex Court in *Sharad Birdhi Chand Sarda vs State Of Maharashtra* AIR 1984 SC 1622 laid down that the following conditions, which may be called five golden principles or the "panchsheel" of the proof of a case based on circumstantial evidence, which 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* [(1973) 2 SCC 79] where the following observations were made:

"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.

34. Keeping in view the law laid down by Hon'ble Apex Court and on perusal of material available on record, it transpires that another circumstantial evidence on which the prosecution rests its case is the recovery of knife. In this regard SI Piyush Dixit PW-2 has stated that on the disclosure statement of the accused persons, they had recorded the statement of Rajesh Kumar and SI Nand Kumar Tiwari who had arrested the accused Kishore @ Ram Kishore and Anoop Kumar. It is clear that SI Nand Kumar Tiwari had stated that he was on duty in tracing the accused of another case which were named in Case Crime No.1051 of 2007, under section 323, 504, 324 of the IPC and he had arrested both of the accused in that case. Then on asking, they told that they had caused the death of the deceased by knife which they had concealed in a field of paddy, but they did not make any endeavor to procure any public witness at the time of alleged recovery of knife which is known as Rampuri Chaku and which is easily available in the open market. In so far as another recovery of arm the same is also not reliable under the above facts, evidence and circumstances. This is also very surprising that upto six days, the statement of Ram Niwas who had identified the accused persons, was not recorded. Thus, we find that evidence adduced by the prosecution is not of a sterling quality. Chain of the circumstantial evidence is not complete, rather is broken. Therefore, inference of culpability of the accused persons in the present offence cannot be drawn.

35. The Hon'ble Supreme Court has repeatedly held that benefit of doubt ensues to accused. If two views are possible, the benefit of doubt must be granted to accused. It has been further held that if two views are possible, the order of acquittal should not be set aside by High Court because there is double presumption of innocence. The Hon'ble Supreme Court in para 39 in *Dhanapal v. State By Public Prosecutor, Madras*, (2009) 10 SCC 401 while dealing with scope of interference at appellate stage has held:

"39. The following principles emerge from the cases above:

1. The accused is presumed to be innocent until proven guilty. The accused possessed this presumption when he was before the trial court. The trial court acquittal bolsters the presumption that he is innocent.

2. The power of reviewing evidence is wide and the appellate court can reappraise the entire evidence on record. It can review the trial court's conclusion with respect to both facts and law, but the appellate court must give due weight and consideration to the decision of the trial court.

3. The appellate court should always keep in mind that the trial court had the distinct advantage of watching the demeanour of the witnesses. The trial court is in a better position to evaluate the credibility of the witnesses.

4. The appellate court may only overrule or otherwise disturb the trial court acquittal if it has "very substantial and compelling reasons" for doing so.

5. If two reasonable or possible views can be reached-one that leads to acquittal, the other to conviction-the High Courts/appellate courts must rule in favour of the accused."

36. In the case in hand, the opinion expressed by the trial court is not only a possible view, but also it is fair and reasonable and cannot be termed as perverse in any manner, thus, it does not warrant interference.

37. As noted above, there is always presumption of innocence and in case of acquittal, there is double presumption. The burden lies upon prosecution to prove the guilt beyond reasonable doubt. The learned trial Court has passed a detailed, reasoned and speaking judgment and we find no infirmity in the said judgment. There is no manifest error, illegality or non-application of mind or non-appreciation of evidence which could compel us to form an opinion different from the opinion formed by the learned trial court.

38. Finding no merit in the present appeal, we are of the considered opinion that the present government appeal is liable to be dismissed summarily.

39. Accordingly, the present government appeal is dismissed summarily.

(Pramod Kumar Srivastava,J.) (Abdul Moin,J.)
September 23, 2026
kkv/

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