

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL APPEAL (AGAINST ACQUITTAL) NO. 3132 of 2025**

**FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE ILESH J. VORA
and
HONOURABLE MR. JUSTICE R. T. VACHHANI**

Approved for Reporting	Yes	No

SAMIMBANU BABUBHAI KHALIFA
Versus
STATE OF GUJARAT & ANR.

Appearance:
MR. JAY G THAKER(9944) for the Appellant(s) No. 1
PUBLIC PROSECUTOR for the Opponent(s)/Respondent(s) No. 1

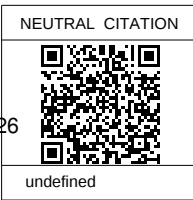
**CORAM: HONOURABLE MR. JUSTICE ILESH J. VORA
and
HONOURABLE MR. JUSTICE R. T. VACHHANI**

Date : 24/09/2026

**ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE R. T. VACHHANI)**

1. Feeling aggrieved and dissatisfied with the judgment and order of acquittal passed by the learned Principal Magistrate, Juvenile Justice Board, Nadiad in Juvenile Criminal Case No.36 of 2018 dated 28.02.2025, acquitting the respondent No.2 (the Juvenile) for the offences punishable under Sections 302 and 201 of the Indian Penal Code, the victim-appellant has preferred the present appeal under Section 413 of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Section 101 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

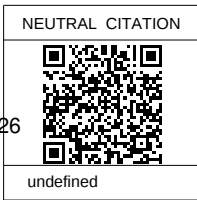
2. The brief facts leading to the filing of the present appeal are as under:



2.1 That on 12.12.2017, the complainant Mohmad Rafik Khalifah, resident of Thasra, lodged a complaint before the Thasra Police Station, District Kheda, alleging that his nephew Sahil had gone missing under suspicious circumstances and was later found dead. According to the complainant, on 10.12.2017, the deceased Sahil had gone to the shop of one Sanjaybhai Valand in the morning and returned home for lunch in the afternoon. After having lunch, he again went back to the shop and came home in the evening at around 6:00 p.m. Thereafter, he visited his grandmother's house and subsequently went out with respondent No.2, who was later identified as the Child in Conflict with Law.

2.2 During the night, at about 3:00 a.m., the complainant's mother Zubeda Bibi informed him that Sahil had not returned home. The complainant, along with other persons, searched the surrounding area to trace Sahil. In the course of the search, one Anvarhusen Zakirhusen Malek informed the complainant that he had seen Sahil at around 11:30 p.m. near Zaika Hotel, in the company of respondent No.2 and one Mustakim Gabbarmiya Malek. When the complainant inquired with the respondent No.2 about Sahil's whereabouts, the respondent No.2 replied that Sahil had sat with him at the underpass for some time and thereafter they both went to their respective homes.

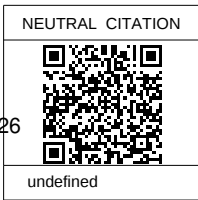
2.3 On the following day, the complainant continued searching for Sahil at various nearby places, including Alina, Virpur, Balasinor, Mahudha, Kathlal, Sarsa, Anand Railway Station and Khambholaj, but Sahil could not be found. Subsequently, in the early hours of 12.12.2017, at about 4:00 a.m., one Firojkhani telephonically informed the



complainant that a dead body was found floating in a canal situated at Aurangpura Sim. The complainant immediately rushed to the spot and identified the dead body as that of his nephew Sahil. The police were informed and reached the scene to carry out further proceedings.

2.4 On the basis of the said complaint, FIR bearing C.R. No. 1-41/2017 came to be registered at Thasra Police Station initially against unknown persons, though suspicion was expressed regarding the involvement of the respondent No.2. Upon completion of investigation, the Investigating Officer filed a charge-sheet against the respondent No.2 for the offences punishable under Sections 302 and 201 of the Indian Penal Code, 1860. On conclusion of the evidence on the part of the prosecution, the learned Juvenile Justice Board put various incriminating circumstances appearing in the evidence to the respondent No.2 so as to obtain his explanation/answer as provided under Section 313 of the Code. In his further statement, the respondent No.2 denied all incriminating circumstances appearing against him as false and further stated that he was innocent and that a false case had been filed against him. After examining the evidence, witness testimonies and submissions from both sides, the learned Juvenile Justice Board recorded a finding acquitting the respondent No.2.

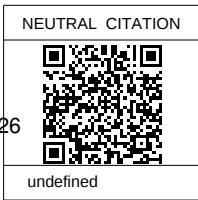
3. We have heard learned Advocate for the appellant and learned Advocate appearing for the respondent No.2 and learned APP for the respondent No.1-State and minutely examined the oral and documentary evidence adduced and produced before the learned Juvenile Justice Board concerned.



4. Learned advocate appearing for the appellant has submitted that since the entire case of the prosecution rests on circumstantial evidence, the prosecution has proved its case beyond reasonable doubt, as also proved the entire chain, and therefore, the learned Juvenile Justice Board has erred in acquitting the respondent No.2. It is further submitted that if the FIR in question is seen at the first instance, the complainant gave the name of the respondent No.2 on the basis of the last seen together and, as such, the specific role or description of the respondent No.2 having been seen at the place of offence points out the role of the respondent No.2 in the commission of the crime. It is therefore submitted that when the prosecution witnesses had seen the respondent No.2 with the deceased, the learned Juvenile Justice Board ought to have convicted the respondent No.2, whereas it discarded the evidence by holding the same to be hearsay, highly unnatural, improbable and inconsistent.

4.1 It is further submitted that the learned Juvenile Justice Board has acquitted the respondent No.2 without considering the scientific evidence. It is further submitted that the Juvenile Justice Board wrongly treated the statements of important witnesses as "hearsay". Witnesses like PW-1 Mohmad Rafik Khalifah (Complainant) and PW-9 Mohmad Sajid Khalifah (eye-witness) had direct knowledge. PW-9 clearly saw the respondent No.2 calling the deceased and both walking away together. PW-1 identified the respondent No.2 and filed the complaint. It is submitted that the Juvenile Justice Board rejected these important facts without properly considering which parts constituted direct evidence and which parts were hearsay.

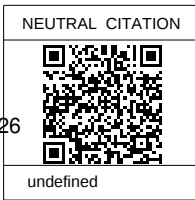
4.2 It is further submitted that the Juvenile Justice Board has ignored



the direct and important observations of PW-1 and PW-9, who saw the deceased and the respondent No.2 together at night, and the said facts were clear and directly connected to the incident. However, the said facts were not considered. It is further submitted that the Juvenile Justice Board has discarded the panchnamas only because the pancha witnesses turned hostile. The recovery and panchnama documents (scene of offence, seizure of articles, etc.) remain admissible and ought to have been properly evaluated.

4.3 It is further submitted that the Juvenile Justice Board did not separate statements based on personal knowledge from statements based on hearsay. Several witnesses gave direct information; however, the same has not been considered. It is further submitted that PW-13 (Doctor) has clearly stated that the death was due to pressure on the neck and injuries caused by a wooden object, which were sufficient to cause death. However, the Juvenile Justice Board did not consider this medical evidence with other facts, such as the respondent No.2 being last seen with the deceased.

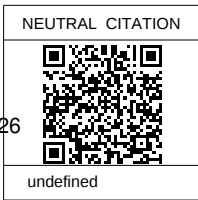
4.4 It is further submitted that the documentary evidence, such as panchnamas, post-mortem report and FSL report (PW-11), does not lose its evidentiary value since the witnesses were declared hostile, and the said documents ought to have been evaluated independently. It is further submitted that the medical cause of neck compression and chest injuries match with the scene panchnama, clothes and recovered wooden object. The Juvenile Justice Board did not connect these facts and failed to draw a proper conclusion.



4.5 It is further submitted that the prosecution has completed the entire chain of circumstances, viz.: (i) PW-9 saw the respondent No.2 with the deceased at 11:30 p.m.; (ii) the deceased was later found dead with injuries; and (iii) the panchnama thereby supported the recovery. It is submitted that the motive and conduct of the respondent No.2 were not considered, as the respondent No.2 used to sit with the deceased and was seen with him late at night. However, the said fact was not properly considered by the learned Juvenile Justice Board and, therefore, the impugned judgment and order of acquittal deserves to be quashed and set aside.

4.6 By making the above submissions, learned Advocate for the appellant would submit to allow the present appeal and to quash and set aside the judgment and order of acquittal recorded by the learned Juvenile Justice Board.

5. Per contra, learned Advocate appearing for the respondent No.2-juvenile would support the impugned judgment and order of acquittal and submit that the learned Juvenile Justice Board, after thorough evaluation and examination of the evidence on record, has recorded the finding of acquittal and, therefore, this Court may not interfere with the said finding of acquittal. He would submit that the prosecution has failed to prove the charges levelled against the respondent No.2, as the evidence of the complainant is doubtful and no plausible reasons are shown by the prosecution as to why their evidence ought to have been believed, since they are interested witnesses and, thus, their evidence is not reliable and believable. He has further submitted that there are omissions and contradictions in the evidence of the prosecution witnesses and the same



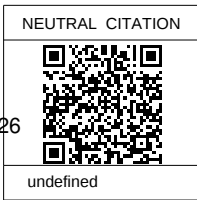
cannot be ignored.

5.1 It is submitted that no such independent witness has been examined by the prosecution to establish that the respondent No.2 committed the murder. The evidence produced by the prosecution is not sufficient to prove the charges levelled against the respondent No.2. He would therefore submit to dismiss the present appeal while confirming the judgment and order of acquittal passed by the learned Juvenile Justice Board.

5.2 In support of his submissions, learned advocate for the respondent No.2 has relied upon the decision in the case of *Laxman Prasad Alias Laxman Vs. State of Madhya Pradesh [(2023) 6 SCC 399]* and *Munikrishna alias Krishna etc. Vs. State by Ulsoor PS [2022 SCC OnLine SC 1449]* and has submitted that, as per the ratio laid down by the Hon'ble Apex Court, if one link in the chain of circumstances is missing and not proved, the conviction based on circumstantial evidence is required to be set aside.

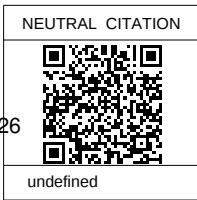
6. We have heard the learned Advocates appearing for the respective parties and perused the deposition of witnesses as also the documentary evidence placed on record as well as the conclusion arrived at by the learned Juvenile Justice Board.

7. At the outset, if the case of the prosecution is examined, the prosecution has examined mainly five witnesses, viz., the complainant and four other witnesses, in support of its case; however, from the



evidence of these witnesses, the prosecution has not proved the factum of the respondent No.2 having committed the offence in question. However, this Court would re-appreciate the evidence of the said five witnesses upon which heavy reliance has been placed by the prosecution to prove its case.

8. Firstly, PW No.1 – Mohmad Rafik Khalifa, complainant, has been examined at Exh.20, who has stated similar facts as narrated in the complaint. He had stated that on that day Sahil came for lunch at her mother's house in the afternoon, returned to the shop and again came to the house at 6:00. He remained in the house and went with the respondent No.2. Around 3:00 in the night, her mother came to him and informed him that Sahil did not return. Upon inquiring about the surrounding area, Sahil could not be found. The complainant tried to trace him along with other persons, whereas one Anvarhusen Zakirhusen Malek informed him that he had seen Sahil at 11:30 with respondent No.2 and Mustakim Gabbarmiya Malek, who were returning from Zaika Hotel. He asked the respondent No.2 about Sahil, in response to which he stated that Sahil sat with him at the underpass for a short time and both returned to their respective houses. Thereafter, on the next date in the morning, he searched for Sahil in Alina, Virpur, Balasinor, Mahudha, Kathlal, Sarsa, Anand Railway Station, Khambholaj, etc. area. On 12.12.2017, in the morning at 4:00, one Firojkhani called him and informed him that the body of Sahil was in the Canal near the bridge situated in Aurangpura Sim. The complainant reached there, where he found Sahil dead. He further stated that the body of Sahil was lying in the canal in a manner in which the legs of the body were inside and the other part of the body was outside the water. He further stated that the body of the deceased had injuries. He further stated that the neck of the deceased was twisted. He

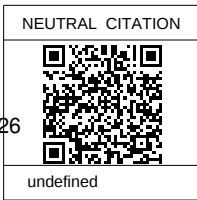


stated to have given a complaint with suspicion over the respondent No.2. He identified the respondent No.2 before the Court. During cross-examination, he admitted that he was informed about the incident through other persons.

From the evidence of this witness, it transpires that the deceased was a friend of the respondent No.2 and the deceased was found dead, and thereafter the complaint was given. Thus, no such direct involvement of the respondent No.2 in the commission of the crime was proved from the evidence of this witness.

9. PW-9, Mohmad Sajid Khalifa, is examined at Exh.47, who has deposed that on 10.12.2017 at around 10:00 in the night, his nephew Sahil was eating at his house. The respondent No.2 came there, called the deceased Sahil and both went outside. Around 5:00 in the morning, his mother PW-11 Zubeda Bibi woke him up by stating that Sahil was not in bed. Therefore, he, along with the other persons, went in search of his nephew Sahil. He further stated that PW-10 Arif, his brother, called him and informed him that the body of Sahil was found in the Canal at Aurangpura. He, along with the other persons, went to the spot and saw and identified the body of deceased Sahil. He narrated the injuries on the body of the deceased. He stated that his brother PW-1 had given a complaint to the police. He further stated that he had suspicion over the respondent No.2 and another person named Habib Khan. He stated that the police had recorded his statement.

Thus, from the evidence of this witness, the only factum proved is that on 10.12.2017, the respondent No.2 went out with Sahil, and that Sahil was found dead, and thereafter the complaint was given. No such direct involvement of the respondent No.2 was proved from the evidence

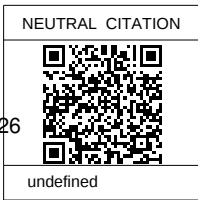


of this witness.

10. PW-10-Mohmad Arif Khalifa is examined at Exh.48, who has deposed that he was informed about the disappearance of his nephew Sahil. They all went to search for him, but he came to know that one body was found near the Canal. Upon reaching that spot, he came to know that the body was of his nephew Sahil. He stated that he did not know who had killed him. He stated that the respondent No.2 had been roaming with the deceased Sahil for 2 months. He further stated that he came to know about the murder of the deceased by the respondent No.2 through other persons. He further stated that he was informed by PW-12 Anvar Husain Malek that the deceased was seen returning from Zaika Hotel around 11:00 with the respondent No.2 and Mustakim Gabbar.

Thus, the evidence of this witness appears to be hearsay evidence and, therefore, does not inspire any confidence to link the respondent No.2 with the offence in question.

11. PW-11-Zubedabibi has been examined at Exh.51, who is the grandmother of the deceased and has deposed that she had four sons and one daughter. Out of them, her daughter Shamim Banu had one son named Sahil. After the divorce, Shamim Banu lived with the present witness for 8-9 years until her re-marriage to one Babubhai Kasim at Virpur. After that, Shamim Banu went to her matrimonial home by leaving her son Sahil. It was stated that her grandson Sahil failed in the 10th standard and was doing hair-cutting work at a shop in Sanjaybhai Valand. It was stated that in the night time, Sahil used to sit with the respondent No.2. She stated that on the day of Sahil's disappearance, she went to the complainant, who, along with other persons, went in search of

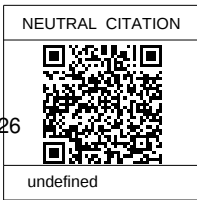


Sahil. In the morning at 9:00 on the third day of Sahil's disappearance, PW-1 informed him that the body of Sahil was found in Navrang Sim. She stated having gone there and narrated the injuries on the body of the deceased. She stated that, as per her belief, the murder of the deceased was caused by the respondent No.2, Habibkhan, Banu and Muskan.

During cross-examination, she admitted that she had not seen the incident and came to know about the incident from another person. Thus, the overall facts stated in the deposition of this witness are hearsay and, therefore, her evidence does not inspire any confidence. Furthermore, it is stated by her that she had suspicion over three other persons other than the respondent No.2. But, except for a bare statement of suspicion, no other credible evidence has been adduced by the said witness. Therefore, the deposition of the said witness is not wholly reliable so as to bring home the charge against the respondent.

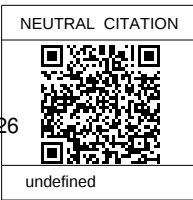
12. PW-12 Anvar Malek had initially not supported the version of the prosecution, but after declaring him hostile, he admitted the leading questions raised by the learned APP. He supported the statement given before the police. However, during cross-examination, he admitted that he had not seen the incident and had no personal knowledge about the incident. He further admitted that he had merely given his name and address to the police. Thus, considering the overall deposition of the said witness, it appears that the nature of the evidence of this witness is hearsay and, therefore, does not inspire any confidence.

13. Thus, from the aforesaid evidence of the five main witnesses, the prosecution has failed to prove the case against the respondent No.2 of having committed murder with the intention and knowledge and by



causing bodily injuries which were sufficient in the ordinary course of nature to cause the death of a person. None of the witnesses has, in clear terms, stated to have seen the respondent No.2 committing the murder of the deceased and, therefore, their evidence does not inspire any confidence. The evidence of most of these witnesses is hearsay evidence, who had stated in their deposition before the Court that the respondent No.2 was last seen with the deceased before his dead body was found, but apart from the respondent No.2, another person, Habibkhan, was also seen with the deceased, and there is also a gap of almost more than a day between the period when the respondent No.2 was last seen with the deceased and when the dead body of the deceased was found. Furthermore, none of these witnesses has stated about any previous animosity between the respondent No.2 and the deceased, and thus the prosecution has failed to establish its case beyond reasonable doubt. The learned Juvenile Justice Board, after thorough analysis, has come to the conclusion and this Court does not find any infirmity in recording the acquittal of the respondent No.2.

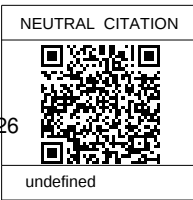
14. If the evidence examined by the prosecution is examined, nothing indicates the involvement of the respondent surfaced from the evidence of this witness, in spite of the fact that the witness has deposed to have seen the respondent No.2 with the deceased prior to commission of the offence, and thus the evidence of this witness does not indicate the fact of the respondent No.2 having been last seen together with the deceased. No direct evidence to link the respondent No.2 with the crime in question has emerged and merely naming the respondent No.2 as having accompanied the deceased prior to commission of the offence, the complaint came to be lodged.



15. Now, insofar as the argument of the learned Advocate for the appellant that the case on hand is based on circumstantial evidence and the prosecution has completed the entire chain to connect the respondent No.2 with the crime is concerned, it would be apt to note that, while leading the case, the prosecution is required to establish mainly three links of the chain, namely: (i) motive; (ii) last seen; and (iii) recovery of weapon of assault, showing involvement of the respondent No.2. Thus, while dealing with the evidence on record, the Court concerned is required to appreciate whether the aforesaid three aspects are established to prove the case of the prosecution or not, and if not, the benefit thereof would go to the respondent No.2, as the prosecution has failed to prove its case beyond reasonable doubt by failing to complete the entire chain of circumstances.

16. In a case of circumstantial evidence, the chain is required to be completed as mandated under the law so as to indicate the guilt of the respondent No.2 while discarding any other theory of the crime. If one of the link goes missing and not proved, in view of the settled law on the point, the conviction is required to be interfered with. At this stage, with profit, we may refer to the decision in case of ***Laxman Prasad Alias Laxman (supra)*** where the Hon'ble Apex Court after referring to ***Sharad Birdhichand Sarda vs. State of Maharashtra [(1984) 4 SCC 116]*** and ***Shailendra Rajdev Pasvan vs. State of Gujarat [(2020) 14 SCC 750]*** has quashed the conviction by making observations in paragraph 2 to 4 as under:

"2. The present one is a case of circumstantial evidence. The prosecution led evidence to establish three links of the chain: (i) motive, (ii) last seen, and (iii) recovery of weapon of assault, at the pointing out of the appellant. The High Court, while dealing with the evidence on record, agreed with the finding of motive and the last seen, however, insofar as the recovery of the weapon of assault and bloodstained clothes were



concerned, the High Court in para 18 of the judgment held the same to be invalid and also goes to the extent to say that the recovery which has been made does not indicate that the appellant has committed the offence. Still, it observed that looking to the entire gamut and other clinching evidence against the appellant of last seen and motive, affirmed the conviction.

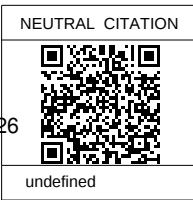
3. *We do not find such conclusion of the High Court to be strictly in accordance with law. In a case of circumstantial evidence, the chain has to be complete in all respects so as to indicate the guilt of the accused and also exclude any other theory of the crime. The law is well settled on the above point. Reference may be had to the following cases:*

*(1) Sharad Birdhichand Sarda v. State of Maharashtra,
(ii) Shailendra Rajdev Pasvan v. State of Gujarat.*

4. *Thus, if the High Court found one of the links to be missing and not proved in view of the settled law on the point, the conviction ought to have been interfered with."*

17. In view of the settled law that one must look for a complete chain of circumstances and not at snapped and scattered links which do not make a complete sequence, the circumstances from which the conclusion of guilt is drawn should be fully proved, and such circumstances must be conclusive in nature. Moreover, all the circumstances should be complete, and there should be no gap left in the chain of evidence; in the present case, the chain is not completed.

18. Furthermore, there is no eyewitness to the incident. Based on suspicion, the complainant lodged an FIR against the present respondent No.2, and the arrest was made based on suspicion; there was no concrete material against the respondent No.2 to prove his involvement in the commission of the crime and merely on suspicion, his involvement was tried to be shown, which cannot take the place of evidence. From the evidence so produced by the prosecution and as examined by the learned Juvenile Justice Board, the prosecution, as rightly held by the respondent



No.2 Board has failed to prove its case. Though the prosecution has heavily relied upon the theory of last seen together, along with the respondent No.2, another person was also found with the deceased, which also casts doubt on the credence of such evidence. The conduct of the witnesses identifying only the deceased who was accompanied by the respondent No.2 prior to his murder also comes under the cloud of doubt.

19. At this juncture, it is apt to refer the judgment of the Supreme Court, in the case of ***Tulasareddi @ Mudakappa & Anr. v. The State of Karnataka & Ors., 2026 INSC 67***, the relevant paragraphs of which read as under:

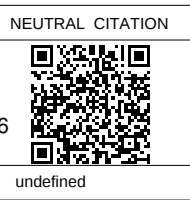
“26. At this stage, we would like to refer the decisions rendered by this Court on the aspect of interference of Appellate Court in the appeal filed by the State challenging the acquittal of the accused recorded by the Trial Court.

27. In the case of Babu Sahebagouda Rudragoudar v. State of Karnataka this Court held in paragraphs 39 to 42 as under:

39. This Court in Rajesh Prasad v. State of Bihar [Rajesh Prasad v. State of Bihar,(2022) 3 SCC 471 : (2022) 2 SCC (Cri) 31] encapsulated the legal position covering the field after considering various earlier judgments and held as below : (SCC pp.482-83, para 29)

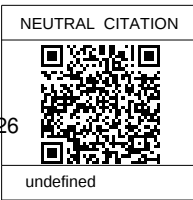
“29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words: (Chandrappacase [Chandrappa v. State of Karnataka, (2007) 4 SCC 415 : (2007) 2 SCC (Cri)325], SCC p. 432, para 42)

‘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.’*

40. *Further, in H.D. Sundara v. State of Karnataka [H.D. Sundara v. State of Karnataka, (2023) 9 SCC 581 : (2023) 3 SCC (Cri) 748] this Court summarised the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 CrPC as follows : (SCC p. 584, para 8)*



“8.... 8.1. The acquittal of the accused further strengthens the presumption of innocence,

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to reappraise the oral and documentary evidence,

8.3. The appellate court, while deciding an appeal against acquittal, after reappraising the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record,

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible, and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.”

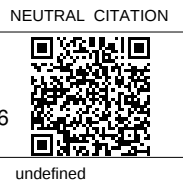
41. Thus, it is beyond the pale of doubt that the scope of interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised within the four corners of the following principles:

41.1. That the judgment of acquittal suffers from patent perversity,

41.2. That the same is based on a misreading/omission to consider material evidence on record, and

41.3. 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.

42. The appellate court, in order to interfere with the judgment of acquittal would have to record pertinent findings on the above factors if it is inclined to reverse the judgment of acquittal rendered by the trial court.



28. In the case of **Ramesh v. State of Uttarakhand**, this Court has observed and held in para 19 & 20 as under:

“19. In a case like this when the trial court acquitted the accused persons of their charges, the High Court could not have reversed the finding merely on the basis that other view, as recorded by the High Court, appeared to it to be a plausible view. Such an approach by the High Court, against the judgment of the acquittal, is impermissible. In this context, we may usefully refer to *Kalyan v. State of U.P.* [*Kalyan v. State of U.P.*, (2001) 9 SCC 632 : 2002 SCC (Cri) 780] wherein it was held : (SCC pp. 640-41, paras 15, 18 & 20)

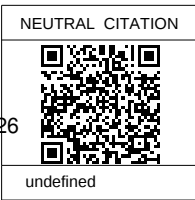
“15. ... The view taken by the trial court could have been disturbed only if there were compelling reasons. We do not find any compelling reason noticed [*State of U.P. v. Hari Lal*, 1998 SCC OnLine All 1216 : 1999 All LJ 142] by the High Court while setting aside the order of acquittal.

18. Even if another view regarding the occurrence was possible, as taken by the High Court, the same could not be made a basis for setting aside the order of the trial court in view of the settled position of law on the point.

20. Under the circumstances, the appeal is allowed by setting aside the judgment of the High Court convicting the accused persons and sentencing them to various imprisonments including life imprisonment. We uphold the order of acquittal passed by the trial court in favour of the appellants.”

29. From the aforesaid decisions rendered by this Court, it can be said that if two reasonable conclusions are possible on the basis of the evidence on record, the Appellate Court should not disturb the findings of acquittal recorded by the Trial Court. Further, if the view taken is a possible view, the Appellate Court cannot overturn the order of acquittal on the ground that another view was also possible. The following principles have to be kept in mind by the Appellate Court while dealing with the appeals against an order of acquittal:

- (a) whether the judgment of acquittal suffers from patent perversity,
- (b) whether the judgment is based on misreading/omission to consider the material evidence on record,
- (c) an order of acquittal is to be interfered with only when there are “compelling and substantial reasons” for doing so. If the order is “clearly unreasonable”, it is a compelling reason for



interference.'

- (d) the appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record,*
- (e) if the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible, and*
- (f) the appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.*

20. In light of the above legal position and for the reasons recorded in the foregoing paragraphs, coupled with the fact that the case of the prosecution does not get support from the evidence recorded by the learned Juvenile Justice Board, the present appeal deserves to be dismissed and is accordingly dismissed while confirming the impugned judgment and order of acquittal.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

MVP/sompura