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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

DECIDED ON: 22.05.2012

+ **CRL.APPEAL-137/2012**

NEERAJ KUMAR CHANDHOK Appellant
Through: Mr. Pramod Kr. Tiwary, Advocate.

Versus

STATE & ORS. Respondents
Through: Mr. Sanjay Lao, APP.

CORAM:
MR. JUSTICE S. RAVINDRA BHAT
MR. JUSTICE S.P. GARG

MR. JUSTICE S.RAVINDRA BHAT (OPEN COURT)

% This is an appeal under proviso to section 372, CrPC by the complainant. He impugns the judgment dated 13.10.2011 passed by the Additional Sessions Judge, Tis Hazari Court, whereby all the three accused were acquitted in case registered as FIR No. 308/04 under section 304/323/341, IPC.

2. The prosecution story, briefly described, was that the appellant/complainant, Neeraj Kumar Chandhok was married to

Ameena on 2.10.2003, but they were separated. While the Appellant had initiated divorce proceedings in the court concerned, the accused Ameena had filed an application before Delhi Commission for Women seeking her maintenance and return of her dowry articles. The appellant lodged a Complaint dated 13.09.04 alleging that on 13.9.2004 at 4 PM, when he and his brother Chander Kumar came out from the Women's Commission, Delhi after attending a hearing, they were stopped by Vikas Chawla who started quarrelling with his brother, while Promila and Ameena caught hold of him; that they beat up his brother. It was also alleged that two more unidentified persons joined the accused persons in beating him and his brother; and that the said two unidentified persons caught hold of his brother while Vikas gave him (Chander) fist blows on his head and mouth, and also inflicted injuries on his (Chander's) private parts. His brother then fell down unconscious; thereafter, Vikas, Promila and Ameena ran back inside the office of Women's Commission, and the other two assailants fled the spot. The appellant also took his brother inside the office, after which the police were called. The Appellant's brother was declared dead upon being taken to LNJP hospital.

3. Based on these allegations, case was registered against Vikas, Ameena and Promila. Investigation was conducted, and police filed the charge-sheet. The case was committed to the Sessions Court for trial. While Vikas was charged for offence punishable under section 304, IPC, Promila and Ameena were charged under section 323/341, IPC. All the accused pleaded not guilty, and claimed trial. During the

trial, the prosecution examined 11 witnesses. Statements of accused were recorded under section 313, Cr.P.C wherein they denied the charges against them.

4. The Trial Court, after considering evidence on record, concluded that the prosecution had failed to prove the charges against the accused. The three accused were thus acquitted. She held that the medical evidence did not establish the allegations made by the complainant regarding the injuries inflicted on the deceased by accused Vikas. On the contrary, the medical evidence suggested that the deceased had been suffering from coronary insufficiency disease and that both his left and right arteries had blockage to a substantial extent; moreover, his death was caused on account of coronary insufficiency disease and its sequel (heart attack), which could have been, it was held, precipitated by scuffle said to have taken place between the complainant and the deceased on one hand, and the accused and two others, on the other. It was further held that the theory that two unidentified persons also joined the accused in beating the deceased had also not been established. The Trial Court also relied on the fact that no public witnesses, who were present during the incident, were examined during trial to disbelieve the prosecution version that accused Vikas had given injuries to the deceased. Furthermore, the charges against accused Promila and Ameena were disbelieved as it was established through the testimony of prosecution's own witnesses that these two accused were carrying their infants on that day.

5. During the appeal, it was argued on behalf of the appellant that the investigation had not been carried out in an upright manner, and that the IO had from the very beginning favored the accused. In this regard, it was pointed out that the charge-sheet was filed more than 3 and a half years after the date of the incident. Counsel relied on the decision of the Supreme Court in *State of Karnataka v. Yarappa Reddy* JT 1999 (8) SCC 10 to contend that even when investigation is carried out improperly, the rest of the evidence must be scrutinized independently.

6. It was also urged that the fact that the deceased smelt of alcohol was not stated even by the doctors who prepared his MLC and Post Mortem report; moreover, as regards PW-10 who stated that he could smell alcohol from the deceased when he reached the spot, it was pointed out that the said witness according to his own testimony reached the spot 1-1 ½ hours after 6:15 PM i.e. at about 7:15-7:45 PM. However, the MLC revealed that the deceased had been at the hospital since 5:45 PM. As regards the testimony of PW-11 who also stated that he smelt alcohol from the deceased, it was contended that PW-9 had also accompanied him but he never stated so in his deposition. It was also stated that it was implausible for a dead body to emit smell of alcohol as the smell is circulated in the air only through breathing, which a dead body quite definitely does not.

7. Counsel further urged that the Trial Court failed to consider that the prosecution had proved adequately that the deceased was a heart

patient, which was known to accused Vikas who deliberately inflicted injury which aggravated his problem and led to his death.

8. Counsel also argued that the Trial Court disbelieved PW-3's version that at the time of the incident, no members of the public were present outside Women Commission. This approach was incorrect. It was pointed out that though PW-6, PW-10 and PW-11, all stated that members of the public were present at the spot, they were not eye-witnesses to the incident and had reached the spot later, when obviously other public persons would have gathered.

9. Assailing the acquittal of Promila and Ameena, learned counsel urged that the witnesses (PW-7, PW-9, PW-10 and PW-11) based on whose testimony the Trial Court concluded that these two accused had been carrying their infants had not stated the same in their statements under Section 161, Cr. PC. Furthermore, he relied on the photographs clicked at the spot after the incident wherein accused Promila and Ameen were not seen carrying any infants.

10. As regards the Trial Court's disbelieving the complainant's assertion that two other persons had joined accused Vikas in beating Chander, counsel contended that the reliance on PW-11's deposition that PW-3 never turned up for helping the police to draw up the sketch of the two persons, was misplaced. He instead pointed out to the testimony of PW-3 where he denied the suggestion that he did not join the investigation before the authority concerned despite the directions of the High Court.

11. Learned APP for the State, on the other hand, presented no objection to the Trial Court judgment, admitting that the evidence on record had not established the prosecution case beyond doubt. It was urged that the loopholes in the prosecution case, which was primarily on PW-3 Neeraj's testimony, were enough to warrant an acquittal. He stated that the Trial Court reasoning was sound, and called for no interference.

Analysis

12. This court has considered the impugned judgment, the evidence and the materials on record which were before the Trial Court; its record was requisitioned. It is an admitted fact that on the date of the incident i.e. 13.9.04, the complainant, deceased Chander and all the three accused were present before Women's Commission before PW-2 Poonam Sharma (then Legal counselor) and PW-6 Abha Chaudhary (then Member, Commission).

13. The prosecution's primary witness for what transpired inside, as well as outside the Commission was PW-3 Neeraj. His testimony was that after the proceedings concluded at the Women's Commission, the accused along with two others stopped him and his brother, and beat his brother severely. In his examination-in-chief, he stated that Vikas along with two unknown persons gave Chander knife handle and fist blows on his forehead, cheeks, chest; and knee blows on his private parts; that Ameena and Promila abused and slapped him (Neeraj), restraining him from protecting his brother. After his brother fell

unconscious due to the beatings, and when the accused fled from there (having gone back inside the Commission office), he took Chander inside the Commission near Room no. C-205A. During his cross-examination, he denied the suggestion that on the day of the incident, Ameena and Promila were both carrying infants. He further denied that his brother was an alcoholic or that on that day, he had been under the influence of liquor, or that he had a natural death due to heart attack. He said that there was no one outside the Commission at that time; that he did not receive any injury as accused Ameena and Promila had just slapped him. He also said that he did not recollect if Promila had dialed Number 100 to call the Police. He also claimed to have witnessed the arrest of the three accused persons.

14. Furthermore, other than this account of the alleged incident, he stated that police recorded his statement (Ex. PW-3/A) on the basis of which the case was registered. He also testified about a complaint that Chander had lodged with SHO P.S. Anand Vihar, and DCP East District Delhi apprehending danger from the family of the accused; and that on 28.5.2004, Ameena with her relatives had even come to their house threatening that if Ameena's wishes were not acceded to, then they would lodge a false case for dowry case against them (Neeraj and Chander) or get them killed. It was stated that the accused also gave threatening phone calls. This complaint dated 1.6.2004 is Ex. PW-3/B. PW-3 also stated that he had given this information to the police, but it was not recorded, and he was told that only relevant facts had been recorded. Witness also stated that case under section

498-A/406 lodged at P.S. Anand Vihar was quashed by Hon'ble High Court. The certified copy of the petition under Section 482, CrPC is Ex. PW-3/DA, and the order thereon is Ex. PW-3/DB. PW-3 also deposed that he had filed a writ before this Court for transfer of the investigation to CBI, the certified copies of which are Ex. PW-3/DE collectively. He denied having filed the writ petition with the aim of putting pressure on the police.

15. He also deposed that on that day, the police did not record his statement, but he had given a self-written statement which he had written sitting outside the Commission. He further stated that he met SHO concerned on the morning of 14.9.2004, when he handed over copy of the complaint dated 1.6.2004 to him; and that the statement of PW-11 IO Rajesh Vijay (Ex. PW-3/DD) was recorded by the SHO then in his presence. He further stated that Chander had been undergoing treatment for his heart ailment since 2001; that the proof for that was with Chander's wife; that Vikas knew that Chander was a heart patient, and that he told this fact about Vikas' knowledge to PW-11 in his statement, but PW-11 refused to place the same on record; the same fact thus, he stated, did not appear in Ex. PW-3/A and Ex. PW-3/DD. The witness was further confronted with the fact that Ex. PW-3/A and Ex. PW-3/DD did not record that Vikas gave knife handle blows to Chander, to which PW-3 stated that he had stated so to the police.

16. The defence of all the accused, as borne out from their statements under Section 313, CrPC was that Promila and Ameena

had their infants with them that day; none of the accused caused any injury on Neeraj or Chander; instead, after coming out of the office, Vikas was made a victim at the hand of Neeraj and Chander, as the latter had tried to snatch from Vikas' possession the departmental enquiry report conducted against Neeraj as well as the statements of his earlier wives, to which Vikas had objected. While Vikas was being beaten, he somehow managed to escape back inside the Commission, and Neeraj and Chander ran after him, in which process Chander, who had been under the influence of liquor, fell. The injuries on Chander's body were due to this fall. No unidentified persons had accompanied the accused to or outside the Commission. Furthermore, it was argued, based on the Post Mortem report that the accused had no role to play in Chander's death, which had been due to coronary insufficiency, which had been precipitated by consumption of alcohol and the scuffle.

17. PW-3's version is partially contradicted by the testimony of PW-2 and PW-6, both of whom were present at the Commission's office where the accused, Neeraj and Chander appeared. PW-2 Poonam Sharma's description of what transpired that evening was that after the parties had left the office, Vikas, Promila and Ameena came back stating that the other party (Neeraj and Chander) had started fighting outside. The latter (Neeraj and Chander) also then returned to the office, and they told her (PW-2) that a quarrel had started between the Aneema and others, on one hand, and Neeraj and his brother, on the other. PW-2 further deposed that either Ameena or Promila told

her that Chander was in possession of a knife, and he should be searched; and that in the meanwhile, Neeraj and Chander started fighting, and the latter fell down. She denied the suggestion that Chander was nervous or that he fell unconscious immediately after his return to the office along with Neeraj. Upon stating so, she was cross-examined by the APP. When confronted with her police statement under section 161, CrPC she denied suggestions that Neeraj told her that Vikas beat Chander or that Neeraj and Chander did not grapple with each other, or that Ameena or Promila (one of them) did not tell that Chander was carrying a knife and should be searched, or that she stated so to the police. In her cross-examination by the defence counsel, she stated that she could not recall whether on that day Ameena and Promila had brought their infants along.

18. PW-6 corroborated PW-3 in some detail. She stated during her testimony after the proceedings had concluded on that day, the accused persons returned to the office telling her that the other party was quarrelling with them; and in the meanwhile, the other party also returned to the office and started quarreling with each other. She stated that they (presumably she and PW-2) tried to intervene in the fight, and then both parties left the office again. She stated that when the police came, they recorded her address but did not record her statement. After this point, learned APP cross-examined her. PW-6 also stated that she did not remember whether Ameena and Promila were carrying their infants that day. PW-6 also denied the suggestion that upon his return to the office, Chander was nervous or that he fell

unconscious immediately; she instead stated that he may have fallen in the corridor, but not in the room. She further denied the suggestion that Neeraj told her that Vikas had beaten Chander; she also denied having said so to the police.

19. PW-4 Dr. Kulbhushan, a Sr. Resident at Maulana Azad Medical College deposed in place of Dr. Rohit who had prepared the Post Mortem Report (Ex. PW-4/A at pg 426 of LCR), and was no more working at the hospital, his whereabouts being unknown. PW-4 proved the report as having been made by Dr. Rohit, and stated that as per the report, the deceased had two external injuries, first - an abrasion on the top of head on the right side, second – lower end of right side of nose. He also testified that according to internal examination, the left coronary artery had 60-70% blockage, while the right coronary artery showed 50-60% blockage. He also proved Dr. Rohit's subsequent opinion regarding cause of death (Ex. PW-4/B) and testified that the viscera examination gave positive test for ethyl alcohol; and that as per the opinion of Dr. Rohit, as stated in the report, the cause of death was coronary insufficiency as a result of coronary aretery disease and its sequel (heart attack), and that the same may have been precipitated by consumption of alcohol and stress associated with the scuffle. He also opined that the external injury as discovered on the deceased could be sustained by a person while running or falling. He lastly stated that as per the report there was no injury on the private parts (groin), or chest of the deceased.

20. PW-5 Dr. Sanjay Kumar was the CMO (Chief Medical Officer) at LNJP hospital on the day of the incident. He deposed in place of Dr. Rehman and Dr. Saifulla who together had prepared the MLC (Ex. PW-5/A at pg 396 of LCR), and who were no more working at the hospital, their whereabouts being unknown. PW-5 proved the MLC as having been prepared by the two said doctors. He further stated that on examination, there were three abrasions present over the forehead, on right side of cheek, and on left side of nose; and lastly, that there were no injuries on the deceased's chest or groin.

21. PW-7 Indu Rani along with Const. Rajesh Kumar were the first police personnel to reach the spot. Const. Rajesh Kumar was not examined during the trial. PW-7 stated in her testimony that when she reached, Chander lay unconscious in room No. C-205A. She had him sent to the hospital in PCR van by Const. Rajesh Kumar. She stated that the accused persons were arrested by IO SI Rajesh Kumar (presumably PW-11, and not Const. Rajesh Kumar) in her presence, and the arrest memos (Ex. PW-7/B to Ex. PW-7/D), the personal search memos (Ex. PW-7/E to Ex. PW-7/G) and Vikas' disclosure statement (Ex. PW-7/A) bear her signature, which she identified. In her cross-examination, she stated that she did not recall whether accused Vikas had any injuries on his person.

22. PW-8 Const. Birender Singh stated that on the directions of SI Rajesh Vijay (PW-11), he took the Chander's body to the mortuary. The handing over of the dead body after the post mortem was also

done in his presence by Ex. PW-8/A by PW-11 to one Pravesh Kumar Chandok (Chander's uncle).

23. PW-9 HC Sushil Tyagi, who also reached the hospital along with PW-10, did not, however, assert that he could smell alcohol from the body of the deceased. He stated that he could not remember the same. Moreover, he also stated that when he reached the spot, i.e. Women's Commission, he did not see any injuries on the person of accused Vikas (correctly identified by him in court); that no public persons were present there; and that accused Ameena and Promila were present with their infants.

24. PW-10 went to the hospital along with PW-11 SI Rajesh Vijay, HC Sushil and Ct. Jai Kishan (not examined). PW-10 stated during his testimony that from the hospital, he was sent to the spot with a camera to take photographs of the spot. During his cross-examination, he stated that he reached the hospital at about 6-6:15 PM, and reached the spot after about 1-1.5 hour; and that PW-11 reached the spot 3-4 hours after him. He stated that when he reached the spot, accused Ameena and Promila had their infants with them. He did not recollect during his testimony whether Vikas or Neeraj had any injuries on their person. He however claimed that smell of alcohol was emanating from Chander.

25. PW-11 stated during his examination-in-chief that he reached the hospital along with HC Sushil Kumar, Ct. Bhola and Ct. Jai Kishan (not examined). He stated that he had clicked photographs of

the deceased but the same were not be filed in court as they could not be developed properly. However, in his cross-examination, he stated that no negatives were placed on record as the photographs were clicked using a digital camera; he further stated the photos of deceased were not exhibited because they had been deleted or erased (“*washed away*”). He described Chander as being of strong build. As regards time, he stated in his cross-examination that he reached the hospital 10 minutes after receiving the call at 6 PM, and he reached the spot (Commission) at around 8:30 PM; at a later point during his cross-examination, upon being asked whether he recorded the statements of security personnel including peons, whom he admits were present at the Commission, he stated that he did not, as he had reached the Commission at about 7 PM. Regarding arrest of accused, he stated that Vikas was arrested by him in presence of PW-7 the same day from the spot vide memo (Ex. PW-7/B), however accused Promila and Ameena were arrested on 15.9.2004 by memos Ex. PW-7/C and Ex. PW-7/D, as the allegation against them had to be verified. He further stated in his examination that he got the Post Mortem conducted, and one duly sealed box containing viscera of deceased was received at hospital, and taken into police custody vide seizure memo Ex. PW-8/B. The same was sent to FSL Rohini for examination; he collected the viscera report (Ex. PW-11/D) and deposited the same for obtaining subsequent opinion of doctor who had conducted Post Mortem regarding cause of death. This opinion was report (Ex. PW-4/B).

26. The witness further stated that accused Promila and Ameena had their infants with them, aged 15 months and 3 months respectively. He further stated that upon asking Neeraj if Chander suffered from any heart ailment, Neeraj responded that the latter was hale and hearty. He also stated the deceased smelt of alcohol. He further deposed that Neeraj did not join investigation for preparation of sketch of the two unidentified persons despite directions from the High Court. He also stated that Neeraj's complaint (Ex. PW-3/B) was never given to him, and thus did not become part of record; only his statement was recorded (Ex. PW-3/A). He stated that he got conducted medical examination of accused Vikas (Ex. PW-11/D), and Vikas had injuries, but he did not ask as to how he sustained the same. He stated that on that day at the Commission, Ameena had some documents with her. As regard the presence of public witnesses, he admitted that generally after 2 PM, there are many people present at the Commission. Furthermore, he stated that he could not recall if the accused persons told him that Neeraj and Chander had given beatings to them, or that they tried to snatch the documents. He moreover stated that he did not deny Neeraj from getting recorded any statement/information. Lastly, he deposed that he did not see any knife injuries on the deceased, and that there was no blood on the spot.

27. It may be seen from the above discussion that the doctor who conducted Vikas' medical examination was not examined. However, the post mortem report relied on showed that the deceased had substantial blockages in major arteries; the report also stated that he

was suffering from a coronary disease. The medical reports also suggested that the deceased smelt of alcohol; the Post mortem suggested presence of ethyl alcohol. These are objective facts brought out during the trial; they were corroborated by the testimony of PW-10. The impugned judgment has further noted that even PW-3, in his cross-examination, had admitted that Promila and Ameena had their infants with them. This is incorrect; PW-3 did not admit so in his testimony. Yet, this aspect has been established by the testimonies of PW-7, PW-9, PW-10 and PW-11 all of whom stated that they saw Promila and Ameena with their infants. Apart from the contradiction with the testimony of PW-3, this fact immediately improbabilizes the allegation that both those women had participated in an attack upon the deceased and the accused.

28. PW-10 reached the hospital at about 7-7:15 PM. PW-11 reached not before 8:30 PM. PW-9 too first went to the hospital at around 6:15 PM, from there he went to the P.S. with the *rukka* for registration of the case. Thus, it can be safely assumed that he too would not have reached the spot before 7:15-7:45 PM. PW-7 is the only person to have reached the spot directly. She went with Const. Rajesh Kumar, who was not examined during the trial.

29. As regards the question whether Chander was under the influence of liquor on that day, Ex. PW-11/D (Viscera Examination Report) does indicate presence of ethyl alcohol. PW-10 and PW-11 deposed that smell of alcohol emanated from the deceased. PW-10

stated that when he reached the spot, smell of alcohol was coming from the deceased.

30. The MLC discloses that Neeraj had stated to the examining doctor that Chander had been assaulted, and had received back of knife injuries on the chest, groin and head. Further, the post mortem does not disclose any serious injuries; certainly not on the groin or near the private parts, as alleged by the prosecution. On the other hand, the doctor PW-5 stated that abrasions were present over the forehead, on right side of cheek, and on left side of nose; and that there were no injuries on the deceased's chest or groin. These are again objective facts, gathered from the materials brought out during the trial. They clearly belie the testimony of PW-3 about the nature of the attack, and the places where the accused inflicted injuries upon the deceased.

31. The curious feature in this case is that the attack took place in a public place, i.e. the office of the State Commission for Women. PW-2, a counselor and PW-6, a member of the Commission, who knew about the case between Ameena and the complainant, did not support the prosecution story about the attack. One obvious reason might be that they were not eyewitnesses; however, what both of them consistently deposed was that after the complaint was over, the parties went back to them, saying that there was a quarrel. The seriousness of the altercation was either not told to them, or the incident did not take place in the manner alleged.

32. The sum total of the entire conspectus of evidence in this case is that there is only one witness, i.e the complainant (PW-3) whose allegations were relied on by the prosecution ultimately during the trial. All other witnesses did not support the prosecution – either wholly or in material particulars. This aspect is important, because the existence of a previous medical condition, the presence of two infants, the inference that the deceased was under the influence of alcohol at the time of the attack, all considerably weaken the version given by PW-3. Each of these circumstances, and the fact that the two admitted independent eyewitnesses – PW-2 and PW-6 – who could have known about the incident, do not support the prosecution story in the particulars said to have been seen or experienced by them, injects a great deal of doubt. If these circumstances are taken into consideration, the fact that PW-3 is not an independent witness alerts the court to take a cautious approach.

33. In *Darya Singh and Ors. Vs. State of Punjab* AIR 1965 SC 328 the Supreme Court explained the position regarding reliability of testimony of a relative to a crime victim, in the following observations:

“a person may be interested in the victim, being his relation or otherwise, and may not necessarily be hostile to the accused. In that case, the fact that the witness was related to the victim or was his friend, may not necessarily introduce any infirmity in his evidence. But where the witness is a close relation of the victim and is shown to share the victim's hostility to his assailant, that naturally makes it necessary for the criminal Court to examine the evidence given by such witness

very carefully and scrutinize all the infirmities in that evidence before deciding to act upon it.”

The above position was reiterated in *Harbans Kaur and Anr v State of Haryana* 2005 (9) SCC195. In this case, PW-3 is concededly a relative, being brother of the deceased; he also had matrimonial disputes with the accused, his wife Ameena. In fact, those disputes were the occasion for him and the deceased to go to the Delhi Commission for Women, where the incident took place. Having regard to these circumstances, there are strong reasons why the witness could not be expected to be objective during the deposition. This is borne out by the fact that he never mentioned about the pre-existing medical condition of his deceased brother, and the nature of injuries described in his testimonies are not borne out by the medical evidence.

34. When hearing an appeal against acquittal the powers of the Appellate Court are not limited; it has the same powers as while hearing an appeal against an order of conviction and can thus re-appreciate evidence. Yet, it has to be borne in mind that the presumption of innocence, which is attached to every accused, unless proven guilty, is strengthened and re-enforced by an order of acquittal. Thus, the Appellate Court interferes with an order of acquittal where the finding of the Trial Court is perverse or there is gross misapplication of law or there are compelling and substantial reasons. The Supreme Court in *Syed Peda Aowlia v. The Public Prosecutor, High*

Court of A.P., Hyderabad, (2008) 11 SCC 394, summed up the law after referring to various earlier decisions as under:-

*“5. There is no embargo on the appellate Court reviewing the evidence upon which an order of acquittal is based. Generally, the order of acquittal shall not be interfered with because the presumption of innocence of the accused is further strengthened by acquittal. The golden thread which runs through the web of administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. The paramount consideration of the Court is to ensure that miscarriage of justice is prevented. A miscarriage of justice which may arise from acquittal of the guilty is no less than from the conviction of an innocent. In a case where admissible evidence is ignored, a duty is cast upon the appellate Court to re-appreciate the evidence where the accused has been acquitted, for the purpose of ascertaining as to whether any of the accused really committed any offence or not. See **Bhagwan Singh and Ors. v. State of Madhya Pradesh**, (2002) 4 SCC 85. The principle to be followed by appellate Court considering the appeal against the judgment of acquittal is to interfere only when there are compelling and substantial reasons for doing so. If the impugned judgment is clearly unreasonable and relevant and convincing materials have been unjustifiably eliminated in the process, it is a compelling reason for interference.”*

35. Having regard to the discussion in the preceding paragraphs, and the position of law concerning the correct approach of an

Appellate Court, in dealing with cases of acquittal, this Court is of the opinion that the findings of the Trial Court are sound and do not call for interference. The Appeal is, therefore dismissed.

**S. RAVINDRA BHAT
(JUDGE)**

**S.P. GARG
(JUDGE)**

MAY 22, 2012