

Court No. - 47

Case :- CRIMINAL APPEAL U/S 413 BNSS No. - 227 of 2025

Appellant :- Ramanand Shukla

Respondent :- State Of U.P. And 6 Others

Counsel for Appellant :- Desh Ratan Chaudhary, Hind Pratap Lal, Ishwar Chandra Pandey

Counsel for Respondent :- G.A., Rajiv Dwivedi

Hon'ble Siddharth, J.

Hon'ble Santosh Rai, J.

1. Heard Shri Desh Ratan Chaudhary, learned counsel for the appellant; Shri Rajiv Dwivedi, learned counsel for the respondent nos.2 to 7; Ms. Manju Thakur, learned A.G.A.-I for the State-respondent no.1 and perused the record

2. The above noted appeal is filed against the judgement and order of acquittal passed by Additional Sessions Judge, Court No. 01, District Chitrakoot, vide order dated 10.03.2025 in Sessions Trial No. 69 of 2013 (State of Uttar Pradesh vs. Budhuwa & others) arising out of Case Crime No. 609 of 2012, under Sections- 323/34, 324/34, 308/34, 304/34, 504, 506 I.P.C., Police Station- Karvi, District- Chitrakoot, whereby the respondent nos.2 & 3, namely, Suakali and Smt. Poonam, have been acquitted for all the offences alleged against them and respondent nos. 4 to 7, namely, Budhuwa @ Buddhvilas @ Buddhlal @ Buddhvilas, Raj Bahadur, Ram Dayal and Smt. Sunita Devi, have been acquitted for the offences under Sections 504 and 506 I.P.C.

3. The brief facts of the case is that the complainant, Ramanand Shukla filed before the Police Station a written tahrir, written by Rakesh Pandey, stating therein that on 17.11.2012 at about 07:30 in the morning, on the matter of animals going to the field,

Budhwa Chamaar, Lambe, Raj Bahadur, Ram Dayal, Chhota Chamaar, Sunti Devi, Suwakali, Devkaliya and Poonam of his own village came with axes, sticks, spades (*fawada*) in their hands and started abusing him and when he objected, all the people beaten him with axes, sticks, spades. When his father came to save him, his father was also beaten. His father suffered serious injuries in the incident. Due to the severe and painful injuries, his father fell unconscious. All the accused persons ran away threatening to kill him. All the people of the locality saw this incident and saved him. He brought his father to report the matter and requested for action by writing a report after giving a written complaint to the above effect. On the basis of the said complaint, a First Information Report was registered in the concerned Police Station, Kotwali Karvi, District Chitrakoot on the date of incident i.e. on 17.11.2012 at 08:30 A.M. against the accused Budhuwa Chamar, Lamba Chamar, Raj Bahadur Chamar, Ram Dayal Chamar, Sunti Devi, Suakali, Devkaliya and Poonam, as Case Crime No. 609/2012, under Sections 147, 148, 308, 324, 323, 504, 506 of the Indian Penal Code. On the basis of the said complaint, medical examination of complainants Ramanand Shukla and Ram Kishore was examined by Dr. Parmeshwardin Chaudhary on 17.11.2012 and separate injury reports were prepared. During the treatment, on 17.11.2012 in Jeevan Jyoti Hospital, Allahabad, at 12:00 midnight, in consequence of which, on the information of the hospital, the Panchayatnama of the body of deceased Ram Kishore (father of the complainant) was done by Sub Inspector R.S. Gautam, Police Station Kidganj, District Allahabad on 18.11.2012 and the body was sent for postmortem along with the necessary documents. The *post mortem* of the body of deceased Ram Kishore was conducted by Dr. Avdhendra Pratap Singh on 18.11.2012 and the postmortem

report was prepared.

4. The prosecution in order to prove its case has examined P.W.-1, Ramanand Shukla (complainant); P.W.-2, Kamla Devi (wife of deceased); P.W.-3, Dr. Parmeshwardin Chaudhary; P.W.-4, Devendra Kumar (son of deceased); P.W.-5, Sub Inspector Ramdas Suman; P.W.-6, Dr. Avdhendra Pratap Singh; P.W.-7, Retired Sub Inspector R.S. Gautam; P.W.-8, Retired Sub Inspector Rajendra Singh Sengar and P.W.-9 Retired Sub Inspector Vijay Singh Bhadhoriya.

5. The learned trial court has committed illegality by acquitting the accused/opposite party nos.2 and 3 for all the offences alleged against them and acquitted upon opposite party nos.4 to 7 for offence under Sections 504 and 506 I.P.C.

6. Learned counsel for the appellant has submitted that trial court has misread the evidence on record and wrongly acquitted the respondents. He further submits that as per grounds of appeal and facts which are situated for the offence, no other inference could be drawn. The accused/opposite party nos.2 and 3 had also committed the offence for the other co-accused persons who have acquitted. The opposite party nos.2 to 7 were also wrongly provided the benefit of doubt by the trial court. It is further stated that the trial court had not awarded the proper and adequate compensation in compliance of Section 357 Cr.P.C. to the wife of the deceased/victim. It is further prayed to allow this Criminal Appeal and may further be pleased to set aside the impugned judgment & order dated 10.03.2025 passed by learned Additional Sessions Judge, Court No.1, Chitrakoot, in Sessions Trial No.69 of 2013 (State of U.P. v. Budhuwa & others), arising out of Case Crime No.609 of 2012, under Section 323/34, 324/34, 308/34,

304/34, 504, 506 I.P.C., Police Station Karvi, District Chitrakoot to the extent of acquitting the accused/opposite party nos.2 & 3 for all the offences alleged against them and acquitting accused/opposite party nos.4 to 7 for the offences u/s 504, 506 I.P.C. and this Hon'ble Court may further be pleased to award proper sentence to the accused persons and proper compensation u/s 357 Cr.P.C. to the victim/legal heirs of the deceased and to the injured.

7. From perusal of the order dated 10.03.2025 passed by the learned Additional Sessions Judge, Court No.01, Chitrakoot in Sessions Trial No.69 of 2013, it transpires that two accused persons, namely, Suakali and Smt. Poonam, were acquitted by the court on the ground that no specific role and involvement has been assigned by the prosecution witnesses in their statements before the Trial Court, whereas the prosecution witnesses specifically stated the role and involvement in the committing the offence by rest of the accused persons. Essential principle of holding an individual guilty under Section 304 part II, is the essence of guilty knowledge, meaning thereby the accused committed an act that cause of death of another person with the knowledge that such an act was likely to cause death but without any intention to cause death was such bodily injury as is likely to cause death.

8. In Rampal Singh vs. State of Uttar Pradesh, (2012) 8 SCC 289, the Hon'ble Supreme Court has held that in the absence of intention to cause death if a person strikes a blow with a big blunt weapons on vital part of the body, death occurs, conviction would be likely to under Section 304 part-II I.P.C. In this case learned trial court has not held guilty all the accused persons Smt. Suakali and Smt. Poonam under Section 304 part-II I.P.C. on the basis of specific role of involvement of the other accused persons in

committing the offence of culpable homicide as provided under Section 304 part-II I.P.C.

9. Sections 504, 503 and 506 of Indian Penal Code read as under:-

"504. Intentional insult with intent to provoke breach of the peace.
-whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

503. Criminal intimidation.- whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.— A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

506. Punishment for Criminal intimidation.- whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; if threat be to cause death or grievous hurt, etc — and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or [imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with

imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

10. For the purpose of holding guilty under Section 506 I.P.C. it requires to cause threat by accused persons with specific intention to cause alarm to the victim. To constitute the offence under Section 506 I.P.C., there must be credible and definite threat, mere utterance on verbal speech, without any overact or specific intention to carry out threat would not amount to criminal intimidation. Furthermore for the purpose of guilty under Section 504 I.P.C., it requires to prove intention to provoke the breach of peace by way of cogent and reliable evidence in *Jodh Singh and others vs. State of U.P.* and another 1991 Criminal Law Journal 3226, the Allahabad High Court held that specific word is required to prove intentional insult which may amount breach of public peace. The accused must have the intention of knowledge that such provocation is likely to cause the person to provoke public peace or to commit other offence.

11. The appellate Court is usually reluctant to interfere with a judgment acquitting an accused on the principle that the presumption of innocence in favour of the accused is reinforced by such a judgment. The above principle has been consistently followed by the Constitutional Court while deciding appeals against acquittal by way of Article 136 of the Constitution or appeals filed under Section 378 and 386 (a) Cr.P.C. in ***State of M.P. Vs. Sharad Goswami*, (2021) 17 SCC 783; *State of Rajasthan Vs. Shera Ram*, (2012) 1 SCC 602, *Shivaji Sahabrao Bobade Vs. State of Maharastra*, (1973) 2 SCC 793.**

12. The Supreme Court in the case of ***Ramesh Babulal Doshi Vs. State of Gujarat*, (1996) 9 SCC 225** has observed that the High

Court must examine the reasons given by the trial Court for recording their acquittal before disturbing the same by re-appraising the evidence recorded by the trial court. For clarity, para 7 is extracted herein below:

"Before proceeding further it will be pertinent to mention that the entire approach of the High Court in dealing with the appeal was patently wrong for it did not at all address itself to the question as to whether the reasons which weighed with the trial Court for recording the order of acquittal were proper or not. Instead thereof the High Court made an independent reappraisal of the entire evidence to arrive at the above quoted conclusions. This Court has repeatedly laid down that the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence cannot constitute a valid and sufficient ground to interfere with an order of acquittal unless it comes to the conclusion that the entire approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellate Court answers the above question in the negative the order of acquittal is not to be disturbed. Conversely, if the appellate Court holds, for reasons to be recorded, that the order of acquittal cannot at all be sustained in view of any of the above infirmities it can then - and then only - reappraise the evidence to arrive at its own conclusions. In keeping with the above principles we have therefore to first ascertain whether the findings of the trial Court are sustainable or not."

13. The Supreme Court in the case of ***Sadhu Saran Singh Vs. State of U.P., (2016) 4 SCC 357*** has observed that an appeal against acquittal has always been on an altogether different pedestal from an appeal against conviction. In an appeal against acquittal, where the presumption of innocence in favour of the accused is reinforced, the appellate court would interfere with the order of acquittal only when there is perversity.

14. The Supreme Court in the case ***Basheera Begam Vs. Mohd. Ibrahim, (2020) 11 SCC 174*** has held that the burden of proving an accused guilty beyond all reasonable doubt lies on the prosecution. If, upon analysis of evidence, two views are possible, one which points to the guilt of the accused and the other which is inconsistent with the guilt of the accused, the latter must be preferred. Reversal of a judgment and other of conviction and acquittal of the accused should not ordinarily be interfered with unless such reversal/acquittal is vitiated by perversity. In other words, the court might reverse an order of acquittal if the court finds that no person properly instructed in law could have, upon analysis of the evidence on record, found the accused to be "not guilty". When circumstantial evidence points to the guilt of the accused, it is necessary to prove a motive for the crime. However, motive need not be proved where there is direct evidence. In this case, there is no direct evidence of the crime.

15. The Supreme Court in the case of ***Kali Ram Vs. State of H.P., (1973) 2 SCC 808*** has observed as under:

"25. Another golden thread which runs through the web of the 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 other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence."

16. The Supreme Court again examined in ***State of Odisha v. Banabihari Mohapatra & Ors, (2021) 15 SCC 268*** the effect of the probability of two views in cases of appeal against acquittal and held 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.

17. The Supreme Court in *Sujit Biswas v. State of Assam, (2013) 12 SCC 406* has reiterated the position that suspicion, however strong, cannot replace proof. An accused is presumed to be innocent unless proven guilty beyond a reasonable doubt.

18. In the background of the law discussed herein above, we have examined the trial court's findings and evidence adduced during the trial by the witnesses to test the legality and validity of the impugned order. Considering all the facts & circumstances and evidence available on record, the learned trial court has rightly acquitted accused Suakali and Smt. Poonam from all the charges leveled against them and the other accused persons under Sections 504 and 506 I.P.C.

19. Thus, we have perused the record in the light of arguments advanced by learned counsel for both the parties and substantive material/evidence available on the record, we are of the considered view that the grounds raised by the appellant are purely factual and do not warrant a re-evaluation of evidence in this appeal against acquittal.

20. Thus, the appeal has no *prima facie* merits, therefore, the appeal is hereby **dismissed** at the admission stage.

Order	Date	:-	13.8.2025
A.N. Mishra			