

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.446 OF 1996

The State of Maharashtra

.. APPELLANT
[Orig. Complainant]

VERSUS

Balasaheb Kashinath Shendage,
Age 31 Yrs., Occu. R/o.Takali
Dhokeshwar, Dist. Ahmednagar

..RESPONDENT
[Ori. Accused]

...
Mr. S.D.Kaldate, APP for Appellant – State
Mr. P.G.Patil, Advocate h/f. Mr. V.R.Dhorde, Advocate for
Respondent

...
**CORAM : S.S. SHINDE &
A.M.BADAR, JJ.**

**RESERVED ON : 09.02.2015
PRONOUNCED ON: 25.02.2015**

JUDGMENT [Per S.S.Shinde, J.] :

1] This Appeal is filed by the State, challenging the Judgment and Order of acquittal dated 02.04.1996 passed by Additional Sessions Judge, Ahmednagar in Sessions Case No.172/1995, thereby acquitting the Respondent – Accused for the offence punishable under Section 302 and 201 of the I.P. Code.

The case of the prosecution, in brief, is as under:

2] On 4th March, 1995 at about 9.20 hours one Santosh Shantilal lodged the *Khabar* to the Takali Dhokeshwar Police Outpost, contending therein that, Balasaheb Kashinath Shendage [accused] is the tenant of the complainant. While he was asleep, the accused came from the back door of his house, and told him that come to see what has happened in his rented premises. Thereafter, informant visited the house of the accused and found that, wife of the accused namely Urmila was lying in dead condition due to burning. There was a stove near her. He visited the Police Outpost Takali Dhokeshwar and lodged the *khabar*.

On the basis of said *Khabar*, A.D.No.13/1995 was registered in Police Station Parner under Section 174 of the Criminal Procedure Code. Thereafter, A.S.I. Mohan Pawar visited the spot of incident and drew the inquest panchanama. He forwarded corpse for the post mortem with a requisition letter. Thereafter, he drew spot panchanama and seized hairs of the deceased, piece of jute

[Sutali], pieces of the burnt saree, one iron stove, one German pot containing kerosene lying on the spot. He found blood on the tiles and match box. He collected the tile stained with blood and drew panchanama.

Thereafter, Tanhabai Raosaheb Najan, mother of the deceased Urmila, lodged First Information Report to Police Station, Parner, stating therein details about matrimonial life of the deceased, and also about the incident. Substance of the said complaint was that the accused used to beat Urmila [deceased]. The accused was suspecting chastity of the Urmila and on that count he used to beat Urmila frequently.

In the First Information Report, it is stated that, on 28th February, 1995, Urmila and accused both went to Pokhari. Thereafter, on 1st March, 1995, on Wednesday the complainant went to Dhawalpuri to her house with the children of Urmila. On 4th March, 1995 at about 8.30 a.m. complainant came to know at her house at Dhawalpuri from the message received through Santosh Bhandari that, her daughter Urmila died, and she should immediately come at

Takali Dhokeshwar. The complainant with her son Rajendra, with her another daughter Nirmala and other relatives went to the Takali Dhokeshwar. But corpse of Urmila was taken to the Parner. Therefore, she went to the Hospital at Parner. She saw corpse of Urmila there. She found burn injuries on her chest and face. She also found that, hairs of the Urmila over her forehead were burned. There was smell of kerosene. There was bleeding from her nose and mouth. The complainant confirmed that, the accused must have quarrelled with Urmila as she would not have given an amount of her salary to him, and therefore, accused must have committed her murder by strangulation during the night. In order to cause disappearance of the evidence, created a scene of burning Urmila by pouring kerosene on her person and setting her on fire. The offence under Section 302 and 201 of I.P. Code, being Crime No.55/1995, came to be registered in Parner Police Station. The Investigating Officer arrested accused on 4th March, 1995. After completion of the investigation, charge sheet was filed in the Court of Judicial Magistrate First Class, Parner on 29th May, 1995.

3] Since the offence is exclusively triable by the Sessions Court, the Judicial Magistrate First Class committed the case to the Sessions Court. After recording the findings and hearing the parties, the Trial Court acquitted the respondent – accused. Hence, this Appeal is filed by the Appellant – State.

4] The learned Additional Public Prosecutor appearing for the Appellant – State invited our attention to the evidence of the prosecution witnesses and in particular Santosh Bhandari [PW-8] and submits that, the prosecution has proved through PW-8 that, on the relevant night of the incident, the accused was present in his house. Since the incident had taken place in the rented premises of the accused, he alone is responsible. There was no any other member in the house. It is further submitted that, the accused killed Urmila and then in order to cause disappearance of the evidence set her on fire. Subsequent conduct of the accused also speaks in volume and therefore the Trial Court ought to have convicted the accused. It is further submitted that, the complainant in her complaint has stated about the conduct of the accused inasmuch as

accused used to suspect chastity of the Urmila and on that count used to beat her frequently. Therefore, the learned APP submits that, Appeal may be allowed.

The learned Additional Public Prosecutor appearing for the Appellant – State placed reliance in the case of ***Manoj Shivajirao Patil & Ors. Vs. State of Maharashtra***¹.

5] On the other hand, the learned counsel appearing for the Respondent – Accused submits that, benefit of doubt is rightly given to the accused. At the relevant time of incident, he was not in the house. In his statement under Section 313 of Criminal Procedure Code, he stated that, he went to his village and on 2nd day morning he found dead body of Urmila in his rented premises. It was for the prosecution to prove the presence of the accused in the house on fateful night. It is submitted that, PW-8 in his evidence has not stated about the presence of the accused during night, and therefore, the prosecution case that, PW-8 Santosh stated in his evidence about the presence of the accused, deserves to be

1. 2013 [2] Bom.C.R. [Cri.] 620

discarded. It is submitted that, the prosecution has not brought on record motive for commission of offence. It is submitted that, the entire case rest upon circumstantial evidence and unless there is complete chain of circumstances unerringly points out the guilt of the accused, the order of acquittal cannot be reversed. The view taken by the trial Court is plausible. It is further submitted that, attempt of the prosecution to place reliance on the portion marked in statement recorded by the Police under Section 161 of Criminal Procedure Code of the respondent, cannot be considered as piece of evidence in view of the specific denial by the respondent before the Court about portion marked in his police statement recorded by the Investigating Officer. The learned counsel appearing for the respondent – accused in support of his arguments placed reliance in the case of ***State of Kerala Vs. Babu and ors.***², in the case of ***Tahsildar Singh and another Vs. State of U.P.***³, in the case of ***Ranjit Singh Vs. State of Punjab***⁴, in the case of ***Dhanpal Vs. State by Public Prosecutor, Madras***⁵, in the case of ***Vikramjit***

2. 1999 ALL MR [Cri.] 1260 [S.C.]

3. AIR 1959 SC 1012

4. [2011] 15 SCC 285

5. AIR 2009 SC [Supp] 2549

***Singh alias Vicky Vs. State of Punjab*⁶** and in the case of ***Dasari Siva Prasad Reddy Vs. Public Prosecutor, High Court of A.P.*⁷**.

6] We have given careful consideration to the submissions of the learned Additional Public Prosecutor appearing for the Appellant – State and the learned counsel appearing for the Respondent – Accused. With their able assistance, we have perused the entire evidence available on record. It appears that, the prosecution did examine as many as 9 witnesses to prove its case and to bring home the guilt of the accused. The prosecution examined following witnesses:

Subhash Tarachand Karnawat [PW-1] at Exh.10, the neighbourer of the accused, Maruti Mahadeo Zawar [PW-2] at Exh.11, the panch on the inquest panchnama, Dr.Kashinath Hari Andhale [PW-3] at Exh.13, the Medical Officer, who performed post mortem of the corpse of deceased Urmila, P.H.C. Pandurang Asaraji Bangar [PW-4] at Exh.15, who received the phone of A.S.I. Pawar and also

6. 2007 Cri.L.J. 1000

7. AIR 2004 SC 4383

received the *Khabar* brought by ASI Pawar in Police Station, Parner, Tanhabai [PW-5] at Exh.18, the complainant, the mother of deceased Urmila, Kisan Gaikwad [PW-6] at Exh. 20, the panch on the inquest panchanama, spot panchanama, A.S.I. Mohan Pawar [PW-7] at Exh.23, the Investigating Officer, Santosh Bhandari [PW-8] at Exh.26, who lodged the *Khabar* and who is the landlord of accused and deceased Urmila, A.P.I. Kishore Karande [PW-9] at Exh. 28, the Investigating Officer.

7] The prosecution has relied on the following documents namely Map Exh.9, the *Khabar* Exh.24, the report Exh.19, the Map Exh.9, the inquest panchanama Exh.12, the memorandum of post mortem examination Exh. 14, the spot panchanama Exh.21, the office copy of the requisition letter to C.A. Exh. 33, the office copy of the requisition letter to Tahasildar for drawing Map Exh.34, the report of the C.A. for the articles seized from the spot of incident Exh. 35, the report of the C.A. for the sample of kerosene Exh.36, the report of the C.A. of the pieces of tiles Exh.37 and the panchanama of the seizure of articles found on the dead body of Urmila Exh.38 in support of the charge.

8] In order to prove whether the death of Urmila was homicidal, accidental or suicidal, the prosecution examined Dr. Kashinath Hari Andhale as PW-3. In his evidence, he stated that, the dead body was of female of 28 Years, and moderately built and thin. Rigor mortis present. Tongue delicted to the left side between the teeth, salivation from the mouth present. This is the indication of throttling. He further stated that, he found superficial burns over chest, abdomen, thigh, both upper half arm, black lamp flame [kajali] over the thigh. He further stated that, he found following external injuries:

i] Superficial burns as mentioned in column No.14.

On palpation fracture of hyoid bone.

Injuries in Col.No.18 are ante-mortem.
The burn injuries are not ante-mortem.

In the internal examination, he found hyoid bone fracture. Petechial haemorrhages present. Right lung weigh 300 grams congested all over the lung, haemorrhages present on cut section blood black in colour coming out. Stomach containing semi-digested food ½

liter. No smelling of any poison. Fracture of hyoid bone is the corresponding external injury of the internal injury in column No.20. The age of the injuries is within 24 hours. The cause of death is asphyxia due to throttling.

9] This witness was cross examined by the defence. In his cross examination, he stated that, it is correct to say that, the hyoid bone can be fractured if a person falls with a impact on his throat.

If evidence of this witness is considered in the light of post mortem report, there is no slightest doubt that, death of Urmila was homicidal.

10] The prosecution proved inquest panchanama and spot panchanama through Investigation Officer, and Kisan Laxman Gaikwad [PW-6], in his evidence, he stated that, in presence of another panch namely Maruti Dhangde and Sushilabai Raghu Gaikwad, they saw one woman was lying on the ground in burnt condition in the rented house of the accused. The hairs of that woman were burnt from the front side. The portion of her chest was also burnt.

Police drew the panchanama accordingly. He signed said panchanama. It further appears that, second panchanama i.e. spot panchanama was also drawn. This witness stated that, he saw one brass stove, and one iron stove lying in that room. There was kerosene in brass stove. There was kerosene in iron stove also. He found one German pot [pateli] containing kerosene. One match box was lying there. He found one piece of Sutali [Jute rope] lying there. He further that, kerosene was spread on the tiles on the ground. There were stains of blood on the black tiles. Police seized all the articles. Accordingly, Police drew the panchanama.

Therefore, the prosecution has proved the inquest panchanama, and also spot panchanama and that the spot of incident was the rented house of the accused.

11] The prosecution examined mother of the deceased Urmila namely; Tanhabai Raosaheb Najan as PW-5. In her examination in chief, she stated that, Urmila was his daughter. Urmila was married in the Year 1987 with one Balasaheb. The accused sitting in the Court is the same

Balasaheb. Urmila gave birth to one son and one daughter; they are aged about 5 ½ years and 4 ½ years respectively. Tanhabai's daughter was Nurse. Urmila was serving as Nurse at Takali and Pokhari. The accused was working in Irrigation Department at Takali. The accused and his daughter were living at Takali. Tanhabai was living with the accused for looking after their children. On 28th February, 1995 the accused and Urmila went to Pokhari village together on 28.02.1995. Complainant came to her village Dhawalpuri on 01.03.1995 with children of accused and Urmila. On 04.03.1995, she received the message after 8.30 a.m. that Urmila is expired. Thereafter, she visited Takali with her son and her relatives at that time nobody was at the house of the accused and house was locked. She came to know that, Urmila was taken to Parner. Therefore, she went to Parner. She visited Civil Hospital at Parner. She found that, the hairs of Urmila above the forehead were burnt. Her nose and mouth was bleeding.

She further stated that, accused and deceased used to quarrel frequently. They used to quarrel on the subject of the salary. The accused used to demand amount

to Urmila, however, Urmila refused to give amount, since she has to meet house expenses. She has further narrated details.

12] She was cross examined by the counsel for the defence. In her cross examination, she stated that, Nanabhau is the elder brother of the accused. It is correct that, the mother and father of the accused are alive. The native place of the accused is Tikhol, and there is an agricultural land of the accused at Tikhol. Nanabhau lives separate in all respect at Dhotre. It is correct that, Tikhol is at a distance of 6 to 7 kilo meters from Takali. The accused and his father are living together. It is correct that, the accused had not separated himself from his father. It is correct that, Balasaheb and his father own 15 to 20 acres of land at Tikhol. Amongst it, 2 to 3 acres of land is *Bagayat land*. She further stated that, accused was in service at Mahandol, and working as Watchman. Deceased was serving as Nurse at Pokhari, which is 35 kilo meters from Takali. She further stated that, it is not correct to say that, the quarrels between accused and deceased used to take place on suspicion. It is correct that, Urmila used to live for

2 days in a week at Takali, and for remaining days she used to live at Pokhari.

13] If the evidence of this witness is considered in its entirety, some evidence can be useful to the prosecution to the extent that there use to be quarrel between the deceased and the accused on the ground of not giving money by Urmila to the accused. However, whether the accused was present on the relevant night of the incident in his house, has not been established through the evidence of this witness. On the contrary, this witness has admitted that, the accused is residing in joint family with his father. Family owns an agricultural land at village Tikhol. It has also come in evidence that, at the relevant time, accused was working as Watchman. Therefore, the evidence of this witness is not useful to prove the presence of the accused at the time of incident in his house.

14] The prosecution examined PW-8 Santosh Shantilal Bhandari so as to prove the presence of the accused at the relevant time in his rented house. In his evidence, he stated that, he know the accused. He also

know the wife of the accused namely Urmila; they were living in his premises as tenant since before 3 to 4 months of the incident and the accused and Urmila, both were employed. He was living at a distance of about 50 to 60 feet from the house of the accused. He further stated that, he cannot say as to how they were pulling on. Before about 7 to 8 months when he was called by the accused during morning hours in his rented premises, he found that, Urmila in burnt condition. Accused said to this witness that, he should come to see what has happened in his house. He further deposed that, when he went there, the people were standing there. He found that, Urmila was lying there in burnt condition. He found one stove, one gunny bag containing grain, one pot near the dead body, then, he visited Takali Police Outpost and reported the incident. Thereafter, Police officials visited the spot of incident. The *Khabar* at Exh.24 bears his signature. Police came to his house where incident had taken place and drawn panchanama. He further stated that, the contents of the *Khabar* are correctly written except the figure of timing as '5.30'. This *Khabar* is not written when he visited to the Police Outpost Takali.

The APP cross examined this witness, however, in his cross examination, he stated that, he signed written Khabar. He further stated that, it is not correct that, this Khabar was written by the Police when he visited the Police outpost. He further stated that, it is not correct that, the Police obtained his signature in the Police Outpost at the same time. He specifically stated that, he does not know, accused used to quarrel with his wife and exchange of hot words used to take place between them. He specifically stated that, he did not state before the Police that, Balasaheb used to quarrel with his wife on suspicion in respect of her character. When he confronted with the portion marked 'A' in his statement under Section 161 of Criminal Procedure Code, he stated that, said portion is not correct. Even portion marked 'B' from the said statement was denied by him.

If evidence of this witness is considered in its totality, same is not useful to the prosecution so as to establish presence of the accused at the relevant time at the spot of incident. Even his evidence is not useful on the point of the quarrel between the accused and the

deceased. Though, the prosecution has proved portion marked 'A' and portion marked 'B' from his statement, same cannot be used against the interest of the accused. The Hon'ble Supreme Court in the case of **State of Kerala** [supra], held that, *the use of the previous statement recorded under Section 161 of the Code is controlled by Section 162 of the Code. On a reading of Section 162 of the Code bearing in mind the object of the said Section and Section 145 of the Evidence Act, it is clear that an accused in a criminal trial has the right to make use of the previous statements of a witness including the statements recorded by the investigating agency during the course of an investigation for the purpose of establishing a contradiction in the evidence of a witness or to discredit the witness.*

In a criminal trial as held in the case of **State of Kerala** [supra], the previous statement of a witness can be used by the accused for the limited purpose mentioned in Section 162 of the Code as provided for in S. 145 of the Evidence Act.

15] The prosecution examined Subhash Tarachand

Karnawat as PW-1. In his deposition before the Court, he stated that, accused and deceased were living adjacent to his house. They were living happily. On the night of the incident, he was sleeping in the house during night. He came to know that, Urmila died after he woke up from sleep in the morning. He did not see anything. The corpse of the deceased Urmila was behind the door. Nobody was present near her corpse. He was living in the said premises as tenant in the house of Santosh Bhandari. Landlord was living in front of his house. He further specifically stated that, nothing happened on the previous day of the incident when he returned to his house at 9.30 p.m. from the place of his employment. At that time, Urmila was alone at her house. He did not see whether the accused was present in his house or not. Therefore, the evidence of this witness so as to prove presence of the accused in his house during relevant night is not useful.

During his cross examination, PW-1 stated that, accused is in service at the out-station, and he travels to the place of his work from his village. He further stated that, the portion marked 'A' and 'B' from his police

statement, which was read over to him before the Court, was not correct. He further stated that, the accused was in service at Mahandul, and he used to go to Mahandul early in the morning. The native place of the accused is Tikhol, Taluka Parner, situated at the distance of Takali. His wife told him that, the accused has gone to his native place, on the previous day of this incident. He further stated that, it is correct that, the accused came to his house at about 7.30 to 7.45 a.m. on the motor cycle with one man from Tikhol. If the evidence of this witness is considered in its entirety, same is not useful to the prosecution inasmuch as he did not notice presence of the accused on the said night, and also that couple was residing happily.

16] The prosecution examined Maruti Mahadeo Zaware as PW-2, however, he did not support the prosecution. He only stated that, when he went to the house of the accused, he came to know about the death of Urmila. This witness was declared as hostile, however, except that, he identified the corpse that of Urmila. Nothing useful to the prosecution has been stated by this witness.

17] The prosecution examined Pandurang Asaraji Bangar as PW-4. At the relevant time he was working as Head Constable at Parner Police Station, Parner. He has registered accidental death and to that effect station diary at serial No.13/1995 has been proved by the prosecution to this witness.

18] The prosecution examined Kisan Laxman Gaikwad as PW-6. He acted as *Panch* to the spot panchanama. He stated details about the spot of incident, and also fact that on the body of Urmila there were injuries.

19] The prosecution examined Mohan Vishwanath Pawar as PW-7, who was attached to Takali Police Out Post as P.S.O. on the day of incident. Santosh Bhandari lodged the *Khabar* by coming to the Police Out Post Takali, about death of Urmila. He mentioned about injuries on the body of deceased Urmila. Dead body was sent for post mortem. He further mentioned details about recovery from the spot.

20] The prosecution examined Kishore Narayanrao Karande as PW-9, who was working as API in Parner Police

Station on 4th March, 1995. He stated that, one Tanhabai, mother of the deceased Urmila, has lodged oral report to him. He reduced the same into writing. He registered the crime No.55/1995 for the offence under Section 302, 201 of the I.P. Code. He stated that, portion marked 'A' and 'B' of the statement recorded by the Police of Santosh Shantilal Bhandari was stated before him.

21] We have discussed entire evidence of the prosecution witnesses. It is not in dispute that, death occurred in the rented house of the accused and the deceased. It is also not in dispute that, death was homicidal. It is also not in dispute that, number of injuries were noticed on the body of Urmila, and also the blood stains were found on the tiles of the said room. However, main question is whether the accused was author of the said commission of crime. As already discussed, the prosecution examined PW-8, PW-1 and also PW-5, and other witnesses so as to establish the presence of the accused on the relevant night in his house. None of the witnesses has supported the prosecution case. The prosecution has not established through cogent, convincing and reliable

evidence to prove the presence of the accused in the house on the relevant night of the incident.

22] Upon careful reading of the evidence of PW-1 and PW-8, they have stated that, they have not seen the accused present on that night in his house. They have further stated that, the accused has landed property at his village, and he is a member of joint family; he is also stated that, he used to travel to attend his job as watchman. The fact that the job of the accused is to work as watchman; the possibility of his, not present in the house even during night time cannot be ruled out. So far as motive is concerned, the evidence of the PW-5 appears to be very weak. The trial Court has drawn inference that, accused in all probabilities would not kill deceased since she was working in employment, and was getting salary, and prudent person would not commit murder by loosing the permanent source of income of salary of the deceased Urmila.

23] As already stated, some portion from the Police statement of PW-8 and PW-1 is not admitted by them

before the Court. On the contrary, they have stated that, portion marked in their police statement was not stated by them.

Upon perusal of the Judgment of the trial Court in its entirety, the trial Court has discussed about the evidence of all prosecution witnesses and found that, the presence of the accused on night of the incident has not been proved by the prosecution. Question of proving defence by the accused would arise only when prosecution has led satisfactory evidence showing the presence of the accused in the house. It appears that, the accused had taken defence in his statement recorded under Section 313 of Criminal Procedure Code that, on said night he was not present in his house and he went to his native place. The fact that he went to the native place has been stated by the PW-1 since his wife told him that, the accused has gone to his village. If the view taken by the trial Court is considered in the light of the evidence brought on record by the prosecution, view taken appears to be plausible. The Supreme Court in the case of **Nepal Singh V/s State of Haryana** in Criminal Appeal No. 383 of 2002 decided on

24.04.2009, held that, in case of acquittal, there is a double presumption in favour of the accused-firstly, the presumption of innocence is available to him-secondly, the accused having secured an acquittal, the presumption of his innocence is certainly not weakened but reinforced, reaffirmed and strengthened by the trial Court.

Yet in another judgment in the case of **State of A.P. V/s M. Madhusudhan Rao**⁸ the Supreme Court in para 13 held thus :-

“13. There is no embargo on the appellate court to review, reappraise or reconsider the evidence upon which the order of acquittal is founded. Yet, generally, the order of acquittal is not interfered with because the presumption of innocence, which is otherwise available to an accused under the fundamental principles of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a court of law, gets further reinforced and strengthened by his acquittal. It is also trite that if two views are possible on the evidence adduced in the case and the one favourable to the accused has been taken by the trial court, it should not be disturbed.

⁸. 2009 All MR(Cri) 547 (S.C.)

Nevertheless, where the approach of the lower court in considering the evidence in the case is vitiated by some manifest illegality or the conclusion recorded by the court below is such which could not have been possibly arrived at by any court acting reasonably and judiciously and is, therefore, liable to be characterised as perverse, then, to prevent miscarriage of justice, the appellate court is obliged to interfere."

Yet in another judgment in the case of **Muralidhar alias Gidda and another Vs. State of Karnataka**⁹ the Supreme Court in para 12 held thus:-

12. *The approach of the appellate Court in the appeal against acquittal has been dealt with by this Court in Tulsiram Kanu Vs.State, AIR 1954 SC 1, Madan Mohan Singh Vs. Stte of U.P., AIR 1954 SC 637, Atley Vs. State of U.P., AIR 1955 SC 807, Aher Raja Khima Vs. State of Saurashtra, AIR 1956 SC 217, Balbir Singh Vs. State of Punjab, AIR 1957 SC 216, M.G.Agarwal Vs. State of Maharashtra, AIR 1963 SC 200, Noor Khan Vs. State of Rajasthan, AIR 1964 SC 286, Khedu Mohton Vs. State of Bihar, [1970] 2 SCC 450, Shivaji Sahabrao Bobade Vs. State of Maharashtra, [1973] 2 SCC 793, Lekha Yadav Vs. State of*

9. 2014 [4] Mh.L.J.[Cri.] 353

Bihar, [1973] 2 SCC 424, Khem Karan Vs. State of U.P., [1974] 4 SCC 603, Bishan Singh Vs. State of Punjab, [1974] 3 SCC 288, Umedbhai Jadavbhai Vs. State of Gujarat, [1978] 1 SCC 228, K.Gopal Reddy Vs. State of A.P., [1979] 1 SCC 355, Tota Singh Vs. State of Punjab, [1987] 2 SCC 529, Ram Kumar Vs. State of Haryana, 1995 Supp [1] SCC 248, Madan Lal Vs. State of J & K, [1997] 7 SCC 677, Sambasivan Vs. State of Kerala, [1998] 5 SCC 412, Bhagwan Singh Vs. State of M.P. [2002] 4 SCC 85, Harijana Thirupala Vs. Public Prosecutor, High Court of A.P., [2002] 6 SCC 470, C. Antony Vs. K.G.Raghavan Nair, [2003] 1 SCC 1, State of Karnataka Vs. K.Gopalakrishna, [2005] 9 SCC 291, State of Goa Vs. Sanjay Thakran, [2007] 3 SCC 755 and Chandrappa, Chandrappa Vs. State of Karnataka, [2007] 4 SCC 415. It is not necessary to deal with these cases individually. Suffice it to say that this Court has consistently held that in dealing with appeals against acquittal, the appellate Court must bear in mind the following: (i) There is presumption of innocence in favour of an accused person and such presumption is strengthened by the order of acquittal passed in his favour by the trial court, (ii) The accused person is entitled to the benefit of reasonable doubt when it deals with the merit of the appeal against acquittal, (iii) Though, the power of the appellate Court in considering the appeals against acquittal are

as extensive as its powers in appeals against convictions but the appellate Court is generally loath in disturbing the finding of fact recorded by the trial court. It is so because the trial Court had an advantage of seeing the demeanor of the witnesses. If the trial court takes a reasonable view of the facts of the case, interference by the appellate Court with the judgment of acquittal is not justified. Unless, the conclusions reached by the trial court are palpably wrong or based on erroneous view of the law or if such conclusions are allowed to stand, they are likely to result in grave injustice, the reluctance on the part of the appellate Court in interfering with such conclusions is fully justified, and (iv) Merely because the appellate Court on re-appreciation and re-evaluation of the evidence is inclined to take a different view, interference with the judgment of acquittal is not justified if the view taken by the trial Court is a possible view. The evenly balanced views of the evidence must not result in the interference by the appellate Court in the judgment of the trial Court.

24] Since we are in agreement with the findings recorded by the trial Court, we do not wish to lengthen the Judgment. The view taken by the trial Court is plausible, therefore, no interference is called for in the impugned

Judgment and Order. Appeal sans merit, and hence dismissed.

Sd/-

[A.M.BADAR, J.]

Sd/-

[S.S. SHINDE, J.]

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DDC