

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

CRIMINAL APPEAL NO. 296 OF 2001

The State of Maharashtra,
Through the Police Station Mukhed,
At the instance of one
Tukaram S/o Sakharam Pohare,
Age : 50 years, Occu : Agri.,
R/o : Pimpri (Mahipal),
Tq. & Dist. Nanded.

...APPELLANT

VERSUS

1. Govardhan Vithal Govande,
Age : 23 years,
 2. Gayabai Prayagbai Ramji Buktane,
Age : 35 years,
 3. Satwabai Vithal Govande,
Age : 40 Yrs., (died)
- All residents of Shemboli,
Tq. & Dist. Nanded.

4. Sow. Ambubai @ Gayabai Gangadhar
Sadavarte, Age : 30 years,
R/o : Dhotra, Tq. Purna,
District Parbhani

...RESPONDENTS

...

Mr. R.V. Dasalkar, APP for appellant/State.
Mr. Anil M. Gaikwad, advocate for respondent nos.1 and 2.
Respondent no.3 – died., Respondent no.4 – served.

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**CORAM: S.S. SHINDE AND
S.M. GAVHANE, JJ.**

DATE OF RESERVING JUDGMENT : 3rd July, 2017.

DATE OF PRONOUNCING JUDGMENT: 20th July, 2017.

JUDGMENT [PER S.S. SHINDE, J.] :

This appeal is directed against the judgment and order dated 6th April, 2001, passed by the IInd Assistant Sessions Judge, Nanded in Sessions Case No. 188 of 1996, thereby acquitting respondent nos.1 to 4 (original accused nos. 1 to 4) from the offence punishable under Sections 498-A, 304-B and 306 read with 34 of the Indian Penal Code (for short "I.P. Code").

2. The prosecution case in nut-shell, is as under:-

A) The marriage of Phulwantabai (now deceased), who is daughter of informant - Tukaram Pohare (PW-3), was solemnized with accused no.1

on 1st May, 1993. At the time of marriage, dowry of Rs.15,000/-, a gold ring and utensils and other necessary household items were given by Tukaram (PW-3). After marriage, she started cohabiting with accused no.1 - Govardhan. Accused nos. 2 to 4 were also residing with accused no.1. Accused no.3 was the step-mother of accused no.1. The accused persons treated her well for about one year and thereafter, accused no.3 started teasing Phulwantabai and accused no.1 started beating her. Accused no.1 was also insisting her to bring the amount for purchasing costly household items from her father. Because of such ill-treatment, Phulwantabai was brought by her father to his house and she stayed there for about six months. However, thereafter accused no.1 along with four persons had gone to the house of father of an informant and had given assurance that, accused no.1 - Govardhan will treat Phulwantabai well. Therefore, on the assurance given by accused no.1, he sent Phulwantabai for cohabitation.

Thereafter, Tukaram (PW-3) and the maternal uncle, Narayan Sawant (PW-9) went to fetch Phulwantabai, so also to take her to the house of Tukaram at the time of Panchami festival, but the accused did not send her.

(B) Thereafter, Tukaram (PW-3) got knowledge about the ill-treatment meted out to Phulwantabai. Therefore, on 2nd September, 1996, her elder brother - Raosaheb Tukaram Pohare (PW-5), went to meet Phulwantabai and accused no.1, Tukaram (PW-3) also persuaded accused no.1 and requested not to give illtreatment to Phulwantabai. However, within couple of days thereafter on 5th September, 1996, Tukaram (PW-3) received information about the death of Phulwantabai.

(C) Upon receiving such information, Tukaram Pohare (PW-3) and his son Raosaheb along with other villagers went to village Shemboli, where the accused were residing. While going to village

Shemboli, first they went to the hospital at Barad. It was told to them that, Phulwantabai was taken to Nanded, as the doctor was not available there. Then Tukaram Pohare went to Police Station, Mudkhed, where he was informed about the death of Phulwantabai, and that, the dead body was sent to Shemboli after post-mortem. Raosaheb and Tukaram then lodged the report in Police Station, Mudkhed. Then they went to village Shemboli. They found that accused no.1 was not there. Therefore, they carried dead body of Phulwantabai to their home at village Mahipal Pimpri. On the next day i.e. on 6th September, 1996, the funeral has taken place.

(D) Thereafter, Police started investigation, collected necessary documents, recorded statements of the witnesses, and after completion of investigation filed the charge-sheet in the Court of Judicial Magistrate First Class, Nanded. The Judicial Magistrate First Class, Nanded committed

the case to the Court of Sessions, as the offence is exclusively triable by the Court of Sessions.

(E) The Sessions Court framed the charge against the accused persons under Sections 498-A, 306, 304-B read with 34 of the I.P. Code. The same was read over to the accused and the accused persons pleaded not guilty and claimed to be tried.

(F) The defence of the accused, as gathered from the statement recorded under Section 313 of the Code of Criminal Procedure (for short "Cr.P.C.") is that, the dowry was paid voluntarily by the father of deceased Phulwantabai. On the date of incident, Phulwantabai got annoyed because accused no.1 scolded her, as the ration card was not traced out, which was given in her custody. Because of such scolding, she consumed poison and committed suicide. The accused denied that, they demanded any item or dowry from the parents of

Phulwantabai and also she was subjected to illtreatment. During pendency of the trial, accused no.3 the step-mother of accused no.1, expired and the prosecution against her was abated.

3. After recording the evidence and conducting full fledged trial, the trial Court acquitted all the accused for the offence punishable under Sections 498-A, 304-B, 306 read with 34 of the I.P. Code. Hence this Appeal by the State.

4. Learned A.P.P. appearing for the State submits that, the prosecution examined the father, mother, brothers and other witnesses so as to prove the charge framed against the accused for the offence punishable under section 498-A of the I.P. Code. It is submitted that, all the witnesses have stated about the ill-treatment and harassment given by the accused to deceased Phulwantabai. Her

death was within seven years from the marriage. The medical evidence also supports the prosecution case, and therefore, the view taken by the trial Court of acquittal of the respondents was not possible. Therefore, he submits that, the appeal deserves to be allowed.

5. On the other hand, the learned counsel appearing for the respondents i.e. original accused submits that, the evidence of the prosecution witnesses is inconsistent. Prior to the alleged incident, for six months deceased Phulwantabai stayed in her parents house. He invites our attention to the findings recorded by the trial Court and submits that, those are in consonance with the evidence brought on record and the view taken by the trial Court is possible. The learned counsel appearing for the respondents placed reliance on the exposition of law by the Supreme Court in the cases of **Rajinder Singh V/s**

State of Punjab¹, Major Singh and Anr. V. State of Punjab² and Maya Devi and Anr. V. State of Haryana³, and submits that, the appeal filed by the State may be dismissed.

6. We have given careful consideration to the submissions advanced by the learned A.P.P. appearing for the State and the learned counsel appearing for the respondents (original accused nos.1 to 4). With their able assistance, we have carefully perused and scrutinized the entire notes of evidence brought on record by the prosecution.

7. It appears that, initially the trial Court framed the charge for the offences punishable under Sections 498-A read with 34 and Section 306 read with 34 of the I.P. Code, however, the additional charge was framed for the offence punishable under Section 304-B read with

1 2015 AIR (SC) 1359

2 AIR 2015 SC 2081

3 AIR 2016 SC 125

34 of the I.P. Code. It appears that, the panchanama of scene of offence, post-mortem examination notes, Chemical Analyzer's report, viscera of Phulwantabai was found having teaces of insecticide called "Endosulfan", death of Phulwantabai, marriage solemnized on 1st May, 1993, death occurred within seven years and also Rs.15,000/- was given by the parents of Phulwantabai at the time of marriage have been admitted by the respondents. However, the real question is who was an author of death of Phulwantabai. In order to prove charge against the respondents/accused, the prosecution examined, Dr. Rajendra Nivruttirao Kagne, the Medical Officer (PW-2), who opined the final cause of death as poisoning and the nature of poison was Endosulfan. He also stated details about the injuries on the person of Phulwantabai. He stated that, those injuries are ante-mortem.

During his cross-examination, he stated

that, immediate death is not possible due to the poison detected in the body of Phulwantabai. After having insecticide the patient gets convulsions. He further stated that, if such patient is carried on a motor cycle by two other persons and if left leg of such patient touches the motor cycle while having convulsions the injuries as stated by him in column no.17 are possible.

8. The prosecution examined Tukaram Sakharam Pohare (PW-3), father of Phulwantabai. He stated details of solemnization of marriage of Phulwantabai with accused no.1 - Govardhan. He stated that, at the time of marriage, he paid dowry of Rs.15,000/- and also household articles such as utensils and cot and also the expenses of marriage were also borne by him. Phulwantabai was treated well for one year after the marriage. He further stated that, the husband i.e. accused no.1 used to beat her and other accused gave illtreatment and harassment to her. He further

stated that, he wanted to take Phulwantabai to his house for festival of Panchami, however she was not sent by the accused. On the occasion of Rakhipournima his son Raosaheb went to the house of the accused and persuaded to sent Phulwantabai to his house and thereafter after four days he received information about death of Phulwantabai. Then he went to Police Station, lodged the first information report and then he went to village Shemboli. He noticed the injuries on both legs and hands of Phulwantabai. He took dead body to his village and the same was cremated on the next day. None of the accused attended the cremation.

During his cross-examination, he admitted that, accused no.2 - Gayabai and accused no.4 Ambubai are the sisters of accused no.1. Accused no.2 - Gayabai is widow and is residing at Pawadewadi. He further stated that, accused no.4 - Ambubai was married with a person from village Dhotra, Tq. Purna and after marriage she begotten

children. He also admitted that, accused no.3- Satwabai owned the agricultural land and was earning through the said agricultural cultivation for livelihood. It appears that, the grievance against accused no.3 was that, she used to ask to do household work as well as the agricultural work in the fields. He specifically admitted that, before death, Phulwantabai was residing with him for a period of six to seven months. He further stated that, persons namely Ramji Vithal Govande, Mahadu Laxman Govande, Mahadu Bhajoji Suryatale and Tukaram Mahadu had come to his house. He had talk with them. They assured him that, Phulwantabai would not be asked to do the labour work in the fields. Thereafter, Phulwantabai was sent for cohabitation with them. Thereafter he went to the house of the accused once or twice. He after talking to his daughter returned to his house. He further stated that, Phulwantabai cohabited for four years with accused no.1. Since his financial position is sound and Phulwantabai

being the only daughter, he provided all things as per his capacity before her demand. He paid Rs.15,000/-, fan, cot and ring to accused no.1 on his own. On the occasion of marriage of brother of Phulwantabai accused no. 1 offered clothes to him and after marriage accused no.1 left the place of marriage with Phulwantabai. He stated that, though accused no.1 was jobless at the relevant time, he decided to fix the marital ties of Phulwantabai with accused no.1. He did not ask about her wish. She stated her wish voluntarily. The suggestion was also given that, Phulwantabai wanted to reside at Nanded, however, he denied the said suggestion. He stated before the Court that, accused no.1 was not present at Shemboli, however, the said fact was told by him to the Police while lodging the first information report. He further stated that, the marriage of Phulwantabai was arranged with accused no.1 after her consent. She was never unhappy with accused no.1. He stated that, even though on many occasions, he asked her not to go

with accused no.1, she used to go with him no sooner he used to come to fetch her. He stated that, as Phulwantabai expired suddenly, he had to lodge the report.

9. Thus, upon careful perusal of the evidence of Tukaram (PW-3), it clearly emerges on record that, prior to date of incident for six months Phulwantabai stayed in his house, accused persuaded him to send Phulwantabai to their house and accordingly, she was sent to the house of the accused. He also stated that, after one and half year of marriage of accused no.1 with Phulwantabai, they attended the marriage of his son and also offered clothes to him and his family. He used to visit the house of the accused. Accused no.3 – Satwabai had sufficient source of income. The accused also assured that, Phulwantabai will not be sent for agricultural work. On his own, he gave Rs.15,000/-, fan, cot and household articles to Phulwantabai since she

was his only daughter. The marriage of Phulwantabai was arranged with accused no.1 after her consent. She was never unhappy with accused no.1. Even though on many occasions, PW-3 asked her not to go with accused no.1, she used to go with him no sooner he used to come to fetch her.

Therefore, aforementioned version from the evidence of Tukaram (PW-3) that, Phulwantabai was never unhappy with accused no.1 – Govardhan and also other admissions given by him in his evidence clearly show that, there was no illtreatment or harassmt as alleged and which would attract ingredients of Section 498-A of the I.P. Code.

10. The prosecution has examined Gandarbai Tukaram Pohare (PW-4), who is mother of Phulwantabai. It appears that, this witness has improved the story regarding ill-treatment. She deposed that, accused nos.2 and 3 used to ill-

treat Phulwantabai as no child was begotten to Phulwantabai. This is the improvements in her evidence as PW-3 in his evidence did not state about this fact. She in her evidence stated that, accused no.1 had attended the marriage of Raosaheb and Babasaheb solemnized after one year of the marriage of Phulwantabai. At that time, accused no.1 showed dis-pleasure as he was not presented gold finger ring. She stated that, accused no.1 used to beat Phulwantabai for a TV-set and that, once she had paid amount of Rs.5,000/- behind the back of her husband to Phulwantabai. She also stated that, the accused no.1 used to illtreat Phulwantabai for bringing motor-cycle. All these facts which are stated by PW-4 are by way of omissions. The said facts have not been stated by the PW-3 in his evidence.

However, in cross-examination, she has admitted that, Phulwatabai was asked to stay with him for six month. She also admitted in her cross-

examination that, the amount of dowry of Rs.15,000/-, cloths and other articles were given to Phulwantabai happily. She also admitted that, they did not wait for demand from the accused, and before any demand from the accused, they provided all aforementioned things. So also, when a specific question was asked to PW-4 – Gandharbai that, Phulwantabai was not in a position to tolerate anything against her wish she kept mum and did not answer the question. However, the brothers of Phulwantabai, i.e. Raosaheb (PW-5) and Babasaheb (PW-6) admitted that, Phulwantabai was not in a position to tolerate anything against her wish.

11. The prosecution has also examined Raosaheb Tukaram Pohare (PW-5), the brother of deceased Phulwantabai. He in his deposition stated about the illtreatment meted out to Phulwantabai at the hands of accused persons. He stated that, for festivals Phulwantabai used to come to their

house and used to tell about the illtreatment occasionally. He stated that, in the marriage of this witness and his brother, accused no.1 offered clothes. He stated that, before six months of incident, Phulwantabai resided with them in the parents house.

However, in cross-examination, he admitted that, he has only signed the report without knowing the contents therein. He admitted that, Phulwantabai was asked to stay at their house by the parents and not that Phulwantabai came voluntarily. He stated that, he did not state while recording the statement by the police that, accused used to demand motor cycle or TV set for sending Phulwantabai, however, he did not state the reason why the said fact is appearing in the statement before police.

12. The prosecution has examined Babasaheb Tukaram Pohare (PW-6), the brother of

Phulwantabai. In his evidence, he stated that, Phulwantabai was married with accused no.1. At the time of marriage dowry of Rs.15,000/- and a gold ring was given to accused no.1. After marriage Phulwantabai went to cohabit with accused no.1 at village Shemboli. He thereafter stated about the illtreatment meted out by Phulwantabai and the demands made by the accused persons. This witness also improved the story of ill-treatment by stating that, Phulwantabai was ill-treated as there was no `Bolwan", but his statement is silent about it.

During his cross-examination, he stated that, his parents brought Phulwantabai to stay with them for a period of six months. He denied that, before the demand of Phulwantabai they provided her all articles. He admitted that, the Bolwan was made by his parents. He admitted that, as per the wish of his sister, her marriage was solemnized with accused no.1. He admitted that,

his sister was sensitive like him. The suggestion was given to him that, he was deposing falsely about demand of motor cycle, however, he denied the said suggestion.

From perusal of the evidence of this witness, it is clear that, he in his examination-in-chief stated that, Phulwantabai was illtreated as there was no 'Bolwan' however, in cross-examination, he totally gave go by to the said version stating that, Bolwan was made by his parents. Thus, this admission disproved the story of ill-treatment on the ground of Bolwan.

From perusal of the evidence of PW-3, PW-4, PW-5 and PW-6, it is clear that, there are several omissions and contradictions in their evidence.

13. The prosecution examined Namdeo Sakharam Pohare (PW-8), who in his evidence stated that,

Phulwantabai was the daughter of his real brother. She was married with accused no.1 on 1st May, 1993. At the time of marriage dowry of Rs.15,000/-, a locket and clothes were offered to accused no.1. Thereafter, he stated about the illtreatment which has been meted out to Phulwantabai at the hands of the accused. He stated that, accused no.1 prohibited Phulwantabai from coming to their village. He also demanded motor cycle. Thereafter he gave details of death of Phulwantabai and the cremation. He also improved his evidence by stating that, whenever, Phulwantabai came to their village, she used to tell about the illtreatment to her parents. However, it appears that, while recording the police statement, he did not state all these aspects. So also Vaijnath Gopalrao Paralikar, Investigating Officer (PW-10) was confronted with the said facts, he in his deposition stated that, he did not state about such facts as mentioned in examination-in-chief while recording the statement.

14. The prosecution examined Narayan Sambhaji Sawant (PW-9), who in his deposition has improved his statement, stating that, when he had gone to fetch Phulwantabai, accused no.1 assaulted Phulwantabai in his presence by a pipe. He was demanding Hero Honda motor cycle. But in second breath, he admitted that, Goverdhan did not assault in his presence and he only saw the marks of assault on the person of Phulawabai. So also all these facts have not been appearing in the evidence of PW-3, PW-4, PW-5 and also PW-7. Therefore, this version of PW-9 is improved version.

15. Upon considering the evidence of all the prosecution witnesses in its entirety, the trial Court found that, the same suffers from inherent omissions, contradictions and improvements. There is no evidence on record to show that, Phulwantabai was subjected to illtreatment and

harassment by the hands of the accused.

16. The prosecution has not brought on record the cogent, convincing and sufficient evidence to connect the accused with an alleged incident of consuming poison by Phulwantabai. In absence of any evidence brought on record that, the accused in furtherance of their common intention subjected Phulwantabai to cruelty and thereby abetted to commit suicide and further caused dowry death, we are unable to persuade ourself to cause interference in the impugned judgment and order of acquittal of the respondents.

17. The Hon'ble Supreme Court had occasion to consider the scope and ambit of Section 304-B of the I.P. Code in the case of **Satvir Singh and others vs. State of Punjab and another**⁴. In Para 14 of the Judgment, it is held that :-

⁴ (2001) 8 S.C.C. 633

"14. The essential components of Section 304-B are: (i) Death of a woman occurring otherwise than under normal circumstances, within 7 years of marriage. (ii) Soon before her death she should have been subjected to cruelty and harassment in connection with any demand for dowry. When the above ingredients are fulfilled, the husband or his relative, who subjected her to such cruelty or harassment, can be presumed to be guilty of offence under Section 304-B. To be within the province of the first ingredient the provision stipulates that "where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstance". It may appear that the former limb which is described by the words "death caused by burns or bodily injury" is a redundancy because such death would also fall within the wider province of "death caused otherwise than under normal circumstances". The former limb was inserted for highlighting that by no means death caused by burns or bodily injury should be treated as falling outside the ambit of the offence."

18. The Supreme Court in the case of **Rajinder Singh V/s State of Punjab (supra)** while explaining scope, ambit and purport of Section 304-B of I.P. Code vis-a-vis Section 113-B of the Evidence Act in para 23 held thus :-

"23. We endorse what has been said by these two decisions. Days or months are not what is to be seen. What must be borne in mind is that the word "soon" does not mean "immediate". A fair and pragmatic construction keeping in mind the great social evil that has led to the enactment of Section 304B would make it clear that the expression is a relative expression. Time lags may differ from case to case. All that is necessary is that the demand of dowry should not be stale but should be the continuing cause for the death of the married woman under Section 304B."

19. The Supreme Court, in recent Judgment in the case of Heera Lal and another vs. State of Rajasthan (Criminal Appeal No.790 of 2017) decided

on 24th April, 2017, in Para 6 to 10 held thus:

"6. Having heard the learned counsel appearing for the parties and having gone through the evidence, we are of the opinion that Section 113A of the Indian Evidence Act requires three ingredients to be satisfied before it can be applied i.e. (i) that a woman has committed suicide, (ii) such suicide has been committed within a period of seven years from the date of her marriage and (iii) the husband or his relatives who are charged had subjected her to cruelty.

7. This Court in an illuminating Judgment in Ramesh Kumar vs. State of Chhattisgarh (2001) 9 SCC 618 has stated the law as follows:-

"This provision was introduced by the Criminal Law (Second) Amendment Act, 1983 with effect from 26-12-1983 to meet a social demand to resolve difficulty of proof where helpless married women were eliminated by being forced to commit suicide by the husband or in-laws and incriminating evidence was usually available within the four corners of the matrimonial home and hence was not available to anyone outside the occupants of the house. However, still it cannot be lost sight of that the presumption is intended to operate against the accused in the field of criminal law. Before the presumption may be raised, the foundation thereof must exist. A bare reading of Section 113-A shows that to attract applicability of Section 113-A, it must be shown that (i) the woman has committed suicide, (ii) such suicide has been committed within a period of seven years from the date of her marriage, (iii) the husband or his relatives, who are charged had subjected her to cruelty. On existence and availability of the abovesaid circumstances, the Court may presume that such suicide had been abetted by her husband or by such relatives of her husband. Parliament has chosen to sound a

note of caution. Firstly, the presumption is not mandatory; it is only permissive as the employment of expression "may presume" suggests. Secondly, the existence and availability of the abovesaid three circumstances shall not, like a formula, enable the presumption being drawn; before the presumption may be drawn the court shall have to have regard to "all the other circumstances of the case". A consideration of all the other circumstances of the case may strengthen the presumption or may dictate the conscience of the court to abstain from drawing the presumption. The expression - "the other circumstances of the case" used in Section 113-A suggests the need to reach a cause - and - effect. Relationship between the cruelty and the suicide for the purpose of raising a presumption. Last but not the least, the presumption is not an irrebuttable one. In spite of a presumption having been raised the evidence adduced in defence or the facts and circumstances otherwise available on record may destroy the presumption. The phrase "may presume" used in Section 113-A is defined in Section 4 of the Evidence Act, which says - "Whenever it is provided by this Act the court may presume a fact, it may either regard such fact as proved,

unless and until it is disproved, or may call for proof of it."

8. We find that having absolved the appellants of the charge of cruelty, which is the most basic ingredient for the offence made out under Section 498A, the third ingredient for application of Section 113A is missing, namely, that the relatives i.e., the mother-in-law and father-in-law who are charged under Section 306 had subjected the victim to cruelty. No doubt, in the facts of this case, it has been concurrently found that the in-laws did harass her, but harassment is something of a lesser degree than cruelty. Also, we find on the facts, taken as a whole, that assuming the presumption under Section 113A would apply, it has been fully rebutted, for the reason that there is no link or intention on the part of the in-laws to assist the victim to commit suicide.

9. In the absence of this vital link, the mere fact that there is a finding of harassment would not lead to the conclusion that there is "abetment of suicide".

10. On the facts, therefore, we find, especially in view of the fact that the

appellants have been acquitted for the crime under Section 498 A of the Code, that abetment of suicide under Section 306 is not made out."

20. Therefore, in the light of discussion hereinabove, we are of the opinion that, the prosecution utterly failed to bring on record sufficient, cogent and convincing evidence on record and therefore, the trial Court has rightly granted benefit of doubt in favour of the respondents/accused. The Supreme Court in the case of ***Muralidhar alias Gidda and another Vs. State of Karnataka***⁵ 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. State 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

5. 2014 [4] Mh.L.J.[Cri.] 353

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 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 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 powers 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.

[Underlines supplied]

21. In the result, the Appeal filed by the State shall fail and accordingly, the same stands dismissed. The bail bonds of the respondents/accused, if any, shall stand cancelled.

[S.M. GAVHANE, J.]

[S.S. SHINDE, J.]