

IN THE HIGH COURT OF JUDICATURE AT PATNA
GOVT. APPEAL (DB) No.40 of 1997

State of Bihar

... .. Appellant/s

Versus

1. Sheo Pujan Kumhar
2. Ganpat Kumhar
3. Hiranman Kumhar

All sons of Sukhdeo Kumhar, Village – Khaira, P.S. Sonhan, District –
Kaimur (Bhabua).

... .. Respondent/s

Appearance :

For the Appellant/s : Ms. Shashi Bala Verma, A.P.P.

For the Respondent/s : Miss. Surya Nilambari, Advocate
(Amicus Curiae)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

Date : 01-10-2020

Heard Mrs. Shashi Bala Verma, learned
counsel for the appellant-State and Ms. Surya Nilambari,
Advocate, who was appointed as Amicus Curiae, to assist the
Court.

2. The State of Bihar has challenged (DB)-
40/1997 the judgment of acquittal dated 18th June of 1997
passed by the learned 2nd Additional Sessions Judge, Kaimur
at Bhabua in Sessions Trial No. 553 of 1995/250 of 1996
arising out of Bhabua P.S. Case No. 152 of 1995, whereby



respondent nos. 1 to 3 have been acquitted of the charges under Section 302/34 of the Indian Penal Code.

3. The prosecution case got initiated on the *fardbeyan* of Lala Kumhar (P.W. 5) recorded by D.N. Pathak (P.W.10), Officer-in-Charge of Sonhan Police Station on 21.06.1995 at 07:45 A.M. at Sonhan P.S. itself is to the effect that on 20/21.06.1995, the informant and his father were sleeping adjacent South to the house where the cattle were used to be tied. The informant woke up on the alarm raised by his father and saw the accused Sheo Pujan Kumar armed with *Bhalua*, Ganpat Kumhar and Hiranman Kumhar armed with *lathi*, fleeing away near the cot of his father. The informant Lala Kumhar (P.W.5) ran towards his father and saw blood oozing out from his neck. Thereafter, he raised alarm on which his male and female family members came out but by that time, the father of the informant had died. Thereafter, the informant went to the house of Banshlochan Singh (P.W.4) at village Silauta and explained all the incident before him. Thereafter, the informant along with Banshlochan Singh (P.W.4) went to the Sonhan Police Station where *fardbeyan* was recorded.

4. Consequently, Bhabua P.S. Case No.152 of



1995 was registered for the offence under Section 302/34 of the Indian Penal Code. On conclusion of investigation, charge-sheet was submitted under Section 302/34 of the Indian Penal Code against the respondent nos. 1 to 3. Consequently, cognizance was taken and the case was committed to the Court of Sessions for trial.

5. The prosecution in order to prove its case, examined eleven witnesses. Out of which, Hari Kumhar (P.W.1), Nandu Kumhar (P.W. 2) and Lala Kumhar (P.W.5) are sons of the deceased. P.W. 3 Shushila Devi, is wife of the deceased. P.W. 4 Banshlochan Singh accompanied the informant at the Police Station. P.W. 6 is Dr. Ranjit Kumar, who conducted the *post mortem* of the dead body. P.W. 7, Nandan Singh Yadav and P.W. 8 Navijan @ Rabijan have been declared hostile as they have stated in paragraph-1 of their evidence that their statements under Section 161 of the Cr. P.C. have never been recorded. P.W. 9, Suresh Kumar is a formal witness and has admitted that at the time of occurrence, he was in village Silauta. However, he subsequently, reached at the spot and saw the dead body of the deceased and noticed injury on the neck of the deceased. P.W. 10, Dewendra Nath Pathak, is the Investigating Officer. P.W. 11, Rama Kant Tiwary,



is a formal witness, who has proved the First Information Report.

6. The Defence has not examined any witness.

7. It is not in dispute that there is no eye witness of the alleged occurrence or none of the witnesses has seen the actual assault. The case is basically been rought to be established on the evidence of P.W. 5, Lala Kumhar (Informant), who saw the respondents Sheo Pujan Kumhar, Ganpat Kumhar and Hiranman Kumhar, fleeing away from the place of occurrence, out of which, Sheo Pujan Kumhar was armed with *Bhalua* whereas Ganpat Kumhar and Hiranman Kumhar were armed with *lathi*. This is also an admitted position that all the three respondents have been made accused on the basis of the statement of son of the deceased.

8. The prosecution has also admitted this fact that there was a dispute with regard to the land as the joint property was in possession of the informant.

9. No evidence has been adduced on behalf of the accused persons in support of the defence. However, the statements of the accused persons under Section 313 of the Cr. P.C. were recorded, in which, they have absolutely denied the



prosecution case.

10. The learned Trial Court relying upon consideration of the prosecution witnesses as well as the documentary evidence on record, came to the conclusion that the case is based upon the circumstantial evidence. The circumstances which have been suggested by the prosecution is that the accused persons were seen near the cot of the deceased just after the alleged occurrence.

11. The accused persons were armed with *Garasa* while blood was oozing out from the neck of the deceased on the place of occurrence. The deceased has received sharp cut injury on the left side of the neck. It would be relevant to mention here that prior to the alleged occurrence, accused persons had threatened the informant.

12. The Trial Court came to the final conclusion that the complete chain of circumstances were not fully established. It normally suggests that none have seen the actual occurrence particularly the assault. The Investigating Officer has failed to prepare the sketch map of the place of occurrence. The Investigating Officer has described the case of prosecution stating that about 10 yards to the southeast corner from the house of the informant and the place where the victim



was seen was not visible, whereas the place where P.W. 5 has claimed to be sleeping with the victim on the south west corner and while the P.W. 2 has claimed that he and P.W. 5 were sleeping towards south of the main door and hence, it was not possible to them to see the occurrence. P.W. 1 Hari Kumhar, son of the deceased did not see anyone fleeing away from the place of occurrence. As per evidence of P.W. 5, when he reached near the cot of the deceased, none of the accused persons was present there and admittedly, P.W. 2 woke up on the alarm raised by his father and P.W. 5. Hence, the evidence is only to the extent that P.W. 2 saw the accused persons fleeing away, since it is admitted case that P.W. 5 raised alarm after reaching near the cot of the deceased and by that time, accused persons had already fled away.

13. Similarly P.W. 3 also reached on the alarm of P.W. 5. Moreover, P.W. 3 had not claimed to have seen the accused persons fleeing away from the place of occurrence. There is contradiction in the evidence of P.W. 2 and P.W. 5 *inter se* to the extent that P.W. 2, in examination in chief, has stated that he was sleeping northern south of the main door of the house and his brother Lala Kumhar, P.W.



5, went sleeping towards the south, whereas in examination in chief, he has stated that he was sleeping towards south side of the main door, where the cattle were used to be tied and the deceased was also sleeping near him. However, P.W. 10, Investigation Officer of the case, has not found any cot on the alleged place of occurrence at the south to the house.

14. Learned Trial Court also found that the occurrence took place in between 2:00 A.M.-2:30 A.M. and there was no source of identification. However, the witnesses have stated that it was a moon lit night. The informant had not assigned any motive in the first information report (Exhibit-4). Moreover, the prosecution has suggested that prior to the occurrence, the buffalo of the accused Ganpat Kumhar entered into the house of the informant, which was driven out of the house by the son of the deceased and since the buffalo was driven out mercilessly, it caused anger to the accused persons.

In the circumstances, the learned Trial Court found that the prosecution has failed to prove its case beyond the shadow of doubt. Hence, the judgment of the acquittal, which is under challenge.



15. Learned counsel for the appellant submits that altogether 11 witnesses have been examined. It is a consistent case of P.W. 2, Nandu Kumhar and P.W. 5, Lala Kumhar that respondents Sheo Pujan Kumhar, Ganpat Kumhar and Hiranman Kumhar were seen fleeing away from the place of occurrence and the informant (P.W. 5) reached near the cot where his father was found sleeping with blood oozing injury on the neck. Further learned counsel for the appellant submits that the accused persons had the motive to commit the occurrence, since the informant's side were in possession of joint family property, which was being objected by the accused persons. The death of the father of the informant with injuries caused by sharp weapon on the neck, is being corroborated by the evidence of the Doctor.

16. Learned counsel for the respondents, however, submits that not a single independent witness has supported the prosecution case. Out of 11 witnesses, P.W. 1, P.W. 2 and P.W. 5 are sons of the deceased. P.W. 3 is wife of the deceased. P.W. 4 is the neighbour, who actually reached on the spot and saw the dead body. P.W.7 and P.W.8 are independent witnesses, who have been declared hostile and



have not supported the prosecution case, as they admitted that their statements were not recorded under Section 161 Cr. P.C. P.W. 9, Suresh Kumar, is a formal witness and has admitted that at the time of occurrence, he was in the village of Silauta. Attention was drawn towards the statements of P.W. 3 and P.W. 5 to the extent that during investigation, P.W. 3 did not recognize the accused persons, while P.W. 5 has stated to the extent that he saw the accused persons near the cot of his father and on his alarm raised, his brother (P.W. 2) and mother (P.W. 3) reached to the spot. The statements of the accused under Section 313 of the Cr. P.C. suggests that the accused persons were not confronted with the circumstances, which has appeared in the evidence of the prosecution witnesses.

17. The findings recorded in the impugned judgment are not *prima facie* perverse. It is well settled law that while deciding an appeal against acquittal, the High Court should interfere only when the judgment is perverse. The parameters by the Appellate Court while dealing with the appeal against acquittal has been laid down by the Privy Council in the case of *Sheo Swarup V. King Emperor reported in (1933-34)61 IA 398: AIR 1934 PC 227(2)*. The



relevant extract of the above said decision is referred hereinbelow:

"... the High Court should and will always give proper weight and consideration to such matters as (1) the views of the trial Judge as to the credibility of the witnesses; (2) the presumption of innocence in favour of the accused, a presumption certainly not weakened by the fact that he has been acquitted at his trial; (3) the right of the accused to the benefit of any doubt; and (4) the slowness of an appellate court in disturbing a finding of fact arrived at by a Judge who had the advantage of seeing the witnesses."

18. The parameters laid down by the Privy Council has been consistently followed. However, the issue came to be considered by a Constitution Bench in the case of ***M.G. Agrawal V. State of Maharashtra reported in AIR 1963 SC 200***, which clearly lays down that the presumption of innocence of the accused is further reinforced by their acquittal and the High Court should be slow in interfering with such findings and unless it is totally perverse or wholly unsustainable. The Trial Court has the occasion to appreciate the oral evidence in more better way, since it has the occasion of watching the demeanour of witnesses in the dock. The



relevant extract of the aforementioned decision is referred
hereinbelow: (paras 16 & 17)

16. "There is no doubt that the power conferred by clause (a) which deals with an appeal against an order of acquittal is as wide as the power conferred by clause (b) which deals with an appeal against an order of conviction, and so, it is obvious that the High Court's powers in dealing with criminal appeals are equally wide whether the appeal in question is one against acquittal or against conviction. That is one aspect of the question. The other aspect of the question centres round the approach which the High Court adopts in dealing with appeals against orders of acquittal. In dealing with such appeals, the High Court naturally bears in mind the presumption of innocence in favour of an accused person and cannot lose sight of the fact that the said presumption is strengthened by the order of acquittal passed in his favour by the trial court and so, the fact that the accused person is entitled to the benefit of a reasonable doubt will always be present in the mind of the High Court when it deals with the merits of the case. As an appellate court the High Court is generally slow in disturbing the finding of fact recorded by the



trial court, particularly when the said finding is based on an appreciation of oral evidence because the trial court has the advantage of watching the demeanour of the witnesses who have given evidence. Thus, though the powers of the High Court in dealing with an appeal against acquittal are as wide as those which it has in dealing with an appeal against conviction, in dealing with the former class of appeals, its approach is governed by the overriding consideration flowing from the presumption of innocence.....

17. The test suggested by the expression "substantial and compelling reasons" should not be construed as a formula which has to be rigidly applied in every case, and so, it is not necessary that before reversing a judgment of acquittal, the High Court must necessarily characterize the findings recorded therein as perverse.

19. That there is no fetters on the plenary power of the Appellate Court to review the whole evidence on which the judgment of acquittal is based but the Appellate Court always keep in mind that innocence attributed to the accused having been converted into an acquittal should not be normally interred with, unless the same is vitiated with manifest



illegality, as has been in the case of *Shivaji Sahabrao Bobade Vrs. State of Maharashtra reported in (1973)2 SCC 793*. It has been further held in the case of *Ram Kumar V. State of Haryana reported in 1995 Supp (1) SCC 248:1995 SCC (Cri) 355* that the Appellate Court while dealing with the appeal against acquittal should not interfere merely because another view on an appraisal of evidence on record is possible, which is as follows:

"15. ... the High Court should not have interfered with the order of acquittal merely because another view on an appraisal of the evidence on record was possible. In this connection it may be pointed out that the powers of the High Court in an appeal from order of acquittal to reassess the evidence and reach its own conclusions under Sections 378 and 379 (sic386) Cr. P.C. are as extensive as in any appeal against the order of conviction. But as a rule of prudence, it is desirable that the High Court should give proper weight and consideration to the view of the trial court with regard to the credibility of the witness, the presumption of innocence in favour of the accused, the right of accused to the benefit of any doubt and the slowness of appellate court in justifying a finding of fact arrived



at by a Judge who had the advantage of seeing the witness. No doubt it is settled law that if the main grounds on which the court below has based its order acquitting the accused, are reasonable and plausible, and the same cannot entirely and effectively be dislodged or demolished, the High Court should not disturb the order of acquittal. We shall, therefore, examine the evidence and the material on record to see whether the conclusions recorded by the trial court in acquitting the appellant are reasonable and plausible or the same are vitiated by some manifest illegality or the conclusions recorded by the trial court are such which could not have been possibly arrived at by any court acting reasonably and judiciously which may in other words be characterized as perverse."

20. In the case of *Bhagwan Singh V. State of M.P.* reported in (2002)4 SCC 85 :2002 SCC (Cri) 736, the Hon'ble Supreme Court held that if the two views are possible on the evidence adduced in the case, one pointing towards the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted, which is as under:



"7. ... The golden thread which runs through the web of administration of justice in criminal case 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. Such is not a jurisdiction limitation on the appellate court but Judge-made guidelines for circumspection. The paramount consideration of the court is to ensure that miscarriage of justice is avoided."

21. The Hon'ble Supreme Court in the case of *Ghurey Lal V. State of Uttar Pradesh reported in (2008) 10 SCC 450*, after going through the judgment of the Privy Council, the Constitution Bench laid down such parameters for interfering with judgment of acquittal in exercise of jurisdiction

70. In the light of the above, the High Court and other appellate courts should follow the well-settled principles crystallized by number of judgments if it is going to overrule or otherwise disturb the trial court's acquittal:

1. The appellate court may only overrule or otherwise disturb the trial court's acquittal if it has "very substantial and compelling



reasons" for doing so.

A number of instances arise in which the appellate court would have "very substantial and compelling reasons" to discard the trial court's decision. "Very substantial and compelling reasons" exist when:

(i) The trial court's conclusion with regard to the facts is palpably wrong;

(ii) The trial court's decision was based on an erroneous view of law;

(iii) The trial court's judgment is likely to result in "grave miscarriage of justice";

(iv) The entire approach of the trial court in dealing with the evidence was patently illegal;

(v) The trial court's judgement was manifestly unjust and unreasonable;

(vi) The trial court has ignored the evidence or misread the material evidence or has ignored material documents like dying declarations/report of the ballistic expert, etc.

(vii) This list is intended to be illustrative, not exhaustive.

2. The appellate court must always give proper weight and consideration to the findings of the trial court.

3. If two reasonable views can be reached one that leads to acquittal, the other to conviction-the High Courts/appellate courts must rule in favour of the accused."



Coming to the facts of the case, on perusal of evidence on record, it appears that the learned Trial Court after scrutinizing the evidence on record has reached to a right conclusion that none saw the actual assault and in the present case, circumstantial evidence has also not been proved.

22. In a case when there is no direct evidence available on record, the conviction can be arrived at on the basis of circumstantial evidence but there are certain parameters laid down for coming to the conclusion of conviction, in a case of circumstantial nature, such as the circumstances, from which the conclusion is drawn, should be fully established. The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty. The circumstances should be of a conclusive nature and tendency unerringly pointing towards the guilt of the accused. The circumstances should exclude every possible hypothesis except the one to be proved; there must be chain of circumstances so complete as not to leave any reasonable ground for the conviction consistent with the innocence of the accused and must show that in all human probability the act must have been



done by the accused. The issue has rightly been dealt with in the case of *Sharad V. State of Maharashtra reported in A.I.R. 1984 SC 1622.*

The principle laid down by the Hon'ble Supreme Court:

1. the circumstances from which the conclusion of guilt is to be drawn should be fully established.

2. the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty.

3. the circumstances should be of a conclusive nature and tendency unerringly pointing towards the guilt of the accused.

4. they should exclude every possible hypothesis except the one to be proved, and

5. there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

These five golden principles, constitute the panchsheel of the proof of a case based on circumstantial evidence."



23. In the present case, the only circumstance is that P.W. 5 (informant) saw the accused persons fleeing away from the place where the victim, father of the informant, was sleeping. This circumstance is claimed to be relied upon by P.W. 2 also, but as per the own *inter se* inconsistency of the evidence between P.W. 2 and P.W. 5, it appears that only P.W. 5 is a witness to the circumstance of fleeing away of the accused persons as the P.W. 5, in his evidence, has suggested that when he reached near the cot of his father and saw the injury, then he raised the alarm, but by that time, the accused had fled away, whereas the specific evidence of P.W. 2 is that he woke up on alarm raised by the informant. In the circumstances, this circumstance of seeing the accused persons fleeing away has only surfaced in the testimony of P.W. 5, which has not been conclusively proved or has not been corroborated with the evidence of other witnesses which clouds the prosecution version. It appears that none of the independent witnesses like P.W. 7 and P.W.8 has supported the prosecution case, as they have been declared hostile. The deposition of the Investigating Officer suggests that none of the witnesses have supported their in Court similar to that of statement made during investigation under section 161 Cr. P.C. In the circumstances, the prosecution



has failed to prove the circumstance of fleeing away from the place of occurrence and the said circumstance has not been corroborated by any other witnesses to complete the chain as has been held in the case of ***Ramesh Dasu Chauhan and Ors. Vs. The State of Maharashtra reported in 1908 S.C. 594,*** which is as follows:

8. The Trial Court was alive to the situation that in order to prove a criminal charge by means of circumstantial evidence, it was imperative on the prosecution to establish beyond any doubt that-(i) the circumstances from which the conclusion of guilt is to be drawn must be fully established;(ii) the facts so established should be consistent only with the hypothesis of the guilt of the accused; (iii) the circumstances should be of conclusive nature and they should exclude any possible hypothesis except the one to be proved; and (iv) the chain of evidence should be complete leaving no reasonable ground for the conclusion consistent with the innocence of the Accused.

24. It is true that in the case of direct evidence, the motive takes a back seat, but in the circumstantial evidence, the motive plays an important role. In the present case, the two



motives have been alleged; one that the informant's side were in possession of the entire share of the joint family property, the respondents are none else than the own brother of the deceased, and with regard to the dispute threatening had also been given earlier by the accused persons. The other motive is eating away of *Khesari* grain by animal in the house of the informant. These motives have been alleged for the first time in the Court. The evidence regarding the existence of a motive, which operates in the mind of the accused, is very often limited and it is difficult to adduce evidence to that effect. The evidence on record must suggest the existence of such a motive. In the present case, it does not appear that there was any actual relevant motive for the accused to commit crime. After analyzing the evidence on record, it appears that virtually the prosecution has tried to prove the prosecution case unsuccessfully by virtue of one circumstance, i.e. accused was seen running away from the place of occurrence. This only circumstance has tried to be proved through the evidence of P.W. 5.

25. In such a situation, if the circumstance is sought to be proved by a solitary witness then the Court has to be conscious on relying such solitary evidence. Admittedly, the



father of the informant was killed in an open area but no neighbour or any villager has even seen the accused persons fleeing away from the place of occurrence. P.W. 5 had suggested that all the three respondents were seen fleeing away, being armed with *Garasa* and *Bhalua* and it has been stated in the first information report that the respondent Sheo Pujan Kumhar was armed with *Bhalua* but during trial he deposed that he was armed with *Garasa*. Moreover, the Postmortem Report suggests only one injury. In that circumstances, the benefit of doubt has to go to the accused persons.

26. It is true that the medical evidence cannot override the ocular evidence unless it completely negates the ocular evidence as has been held in the case of ***Ram Narain Singh Vs. State of Punjab reported in (1975) 4 SCC 497***. The Supreme Court held that where the evidence of witnesses of prosecution is totally inconsistent with the medical opinion, it amounts to fundamental defect in the prosecution case unless reasonably explained it is sufficient to discredit the entire case. It has also been held by Supreme Court in the case of ***Abdul Sayeed Vs. State of M.P. reported in (2010) 10 SCC 259*** that even the medical evidence makes the ocular testimony



improbable then it becomes relevant factor in the process of evaluating the evidence. Paragraph 39 of the judgment reads as follows:-

“Thus, the position of law in cases where there is a contradiction between medical evidence and ocular evidence can be crystallised to the effect that though the ocular testimony of a witness has greater evidentiary value vis-a-vis medical evidence, when medical evidence makes the ocular testimony improbable, that becomes a relevant factor in the process of the evaluation of evidence. However, where the medical evidence goes so far that it completely rules out all possibility of the ocular evidence being true, the ocular evidence may be disbelieved.”

27. The cardinal principle of criminal jurisprudence pertaining to burden of proof is that the same is on the prosecution. The guilt of accused must be proved beyond reasonable doubt. However, the burden on the prosecution is only to establish his case beyond reasonable doubt and not all doubts. The reasonable doubt has been defined by the Hon’ble Supreme Court in the case of ***State of U.P. Vs. Krishna Gopal and Anr., reported in (1988) 4 SCC 302***. Paragraph 25 of the judgment reads as follows:

“25. A person has, no doubt, a profound



right not to be convicted of an offence which is not established by the evidential standard of proof beyond reasonable doubt. Though this standard is a higher standard, there is, however, no absolute standard. What degree of probability amounts to “proof” is an exercise particular to each case. Referring to the interdependence of evidence and the confirmation of one piece of evidence by another a learned Author says [See: “The Mathematics of Proof-II” : Glanville Williams: Criminal Law Review, 1979, by Sweet and Maxwell, p. 340 (342)] :

“The simple multiplication rule does not apply if the separate pieces of evidence are dependent. Two events are dependent when they tend to occur together, and the evidence of such events may also be said to be dependent. In a criminal case, different pieces of evidence directed to establishing that the defendant did the prohibited act with the specified state of mind are generally dependent. A juror may feel doubt whether to credit an alleged confession, and doubt whether to infer guilt from the fact that the defendant fled from justice. But since it is generally guilty rather than innocent people who make confessions, and guilty rather than innocent people who run away, the two doubts are not to be multiplied together. The one piece of evidence may confirm the other.”

Doubts would be called reasonable if they are free from a zest for abstract speculation. Law cannot afford any favourite other than truth. To constitute reasonable doubt, it must be free from an over-emotional response. Doubts must be



actual and substantial doubts as to the guilt of the accused person arising from the evidence, or from the lack of it, as opposed to mere vague apprehensions. A reasonable doubt is not an imaginary, trivial or a merely possible doubt; but a fair doubt based upon reason and common sense. It must grow out of the evidence in the case.

26. The concepts of probability, and the degrees of it, cannot obviously be expressed in terms of units to be mathematically enumerated as to how many of such units constitute proof beyond reasonable doubt. There is an unmistakable subjective element in the evaluation of the degrees of probability and the quantum of proof. Forensic probability must, in the last analysis, rest on a robust common sense and, ultimately, on the trained intuitions of the Judge. While the protection given by the criminal process to the accused persons is not to be eroded, at the same time, uninformed legitimisation of trivialities would make a mockery of administration of criminal justice.”

28. It is well settled that the presumption of innocence of the accused is further re-enforces with the judgment of acquittal being recorded by the learned trial Court.

29. In view of the discussions made above, we do not find any perversity in the appreciation of evidence or reaching to the conclusion of acquittal by the learned Trial Court. Accordingly, the appeal is dismissed.



30. Before parting, this Court appreciates the valuable assistance rendered by the learned counsel Ms. Surya Nilambari as Amicus Curiae. The Joint Registrar, Legal Services Authority, is requested to facilitate the payment of prescribed fee to the learned counsel Ms. Surya Nilambari.

(Dinesh Kumar Singh, J)

(Arvind Srivastava, J)

shailendra/DKS

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