

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.353 OF 2009**

The State of Maharashtra)
(Through PSO, Velhe Police Station,)
District – Pune)Appellant/Complainant

V/s.

1) Smt. Sitabai Rambhau Nigade)
Age : 47 years, Occu.: House-wife)
R/o. Metpilavarechi Charatwadi,)
Taluka – Velhe, District - Pune)
2) Vishnu Krishna Nigade)
Age : 33 years, Occu.: Agri.,)
R/o. Metpilavarechi Charatwadi,)
Taluka – Velhe, District - Pune)
3) Sou. Shantabai Hanumant Pilavare)
Age : 27 years, Occu.: House-wife)
R/o. Metpilavarechi Charatwadi,)
Taluka – Velhe, District - Pune)Respondents/Accused

Mrs. Anamika Malhotra, APP for State.

Mr. Abhishek Bhat i/b. S.K. Legal Associates LLP for respondents.

**CORAM : K.R.SHRIRAM, J.
DATE : 26th FEBRUARY 2021**

ORAL JUDGMENT :

1 This is an appeal impugning an order and judgment dated 10th July 2008 passed by the Court of Sessions Judge, Pune, acquitting three respondents (accused) of offences punishable under Sections 498 (A) (*Husband or relative of husband of a woman subjecting her to cruelty*), 306 (*Abetment of suicide*) read with Section 34 (*Acts done by several persons in furtherance of common intention*) of the Indian Penal Code (IPC).

2 One Muktabai got married to one Maruti. The date of marriage is not clear. Maruti's mother was accused no.1 Sitabai Rambhau Nigade. Maruti's sister was accused no.3 Shantabai Hanumant Pilavare. Maruti also had a cousin by the name Vishnu Nigade (accused no.2), who was a Police Patil. Maruti used to work at Mumbai in a restaurant and return to his village twice or thrice in a year. Muktabai used to live with her mother-in-law, accused no.1. Prior to Maruti marrying Muktabai, accused no.3 was already married and she was residing in her matrimonial home in a village about 8 or 9 kms. away from the house where Muktabai was living with her mother-in-law. Muktabai committed suicide on or about 26th November 2005, approximately three years after marriage.

3 After her marriage, Muktabai went to reside at the house of accused no.1 where the husband of accused no.1 also used to reside. For two years life was smooth for Muktabai and there were no complaints whatsoever against her in-laws by Muktabai. Accused no.2 thereafter got married and soon thereafter, his wife got pregnant. That was the trigger for harassment meted out to Muktabai by the accused. The harassment was sarcastic comments and calling Muktabai vanzoti (barren lady). Muktabai had not conceived even after two years of marriage and therefore, she was subjected to ill-treatment and also asked to leave the house.

4 PW-1 and PW-4, mother and father, respectively of Muktabai, have alleged that whenever Muktabai would visit them, she would lament

about the harassment by accused no.1 about her inability to conceive even after two years of marriage. The parents would pacify Muktabai and send her to her matrimonial home. It is prosecution's case that unable to withstand the harassment at the hands of the accused, on 26th November 2005 when Muktabai went to fetch water from Shivkalin water reservoir, she committed suicide by jumping into the reservoir and drowning. Spot panchnama and seizure panchnama was prepared and on 26th November 2005, PW-1 lodged the complaint. After investigation, chargesheet was filed. Statements of the Doctors were also recorded and copies of the inquest panchnama, postmortem report were also filed. The accused pleaded not guilty and claimed to be tried. The accused have denied that they ever ill-treated Muktabai and according to defence, the death was an accidental death.

5 To drive home the charge, prosecution led evidence of eight witnesses, viz., Chandrabhaga Maruti Bhuruk, mother of Muktabai, complainant as PW-1; Ramchandra Kisan Venupure, panch witness as PW-2; Sopan Janu Buruk, uncle of Muktabai as PW-3; Maruti Janu Buruk, father of Muktabai as PW-4; Krushnabai R. Khule, relative of PW-1 and PW-4 as PW-5; Sindubai A. Umarathkar, relative of PW-1 and PW-4 as PW-6; Dr. Nanda Namdeo Shingade, Medical Officer as PW-7; and Vivek Eknath Lavand, Investigating Officer as PW-8.

6 The Trial Court, after considering the evidence, acquitted all the accused. I see no reason to interfere with the conclusions arrived at by the Trial Court. If one considers the case of PW-1 and PW-4, parents of Muktabai, the entire grievance is that Muktabai used to be called a barren women and because she was unable to conceive, she was told to leave the house. Even PW-3, who is relative of Muktabai, has also said the same thing. PW-5 and PW-6, who are also relatives of Muktabai and PW-1, have added some condiments and spices to the case by saying that the accused were taunting and not providing Muktabai food and would pick up quarrels with her in addition to ill-treating her and asking her to leave the house. PW-1 and PW-4, the parents of Muktabai, do not mention anything about Muktabai not being provided with sufficient food or quarrels being picked up by the accused. PW-5 admits that her testimony before the Court that the accused used to called Muktabai vanzoti and they were not giving food to Muktabai has not been mentioned in the statement recorded by the Police. PW-5 has also stated that accused no.2 raped Muktabai and therefore, she was murdered but that is not the case of the prosecution or PW-1 or PW-4 or PW-3. PW-1 and PW-4, who are parents of Muktabai, do not say that Muktabai was raped and murdered. On the contrary, PW-1 only says in her evidence that accused no.2 would behave indecently when Muktabai would go to fetch water. PW-1 ofcourse has stated that accused no.2 attempted to commit rape upon Muktabai but that is not mentioned anywhere in the

statement of PW-1 recorded by the Police. Investigating Officer (PW-8) has also stated in his cross examination that PW-1 and PW-5 never stated before him that accused no.2 attempted to rape Muktabai. This also shows that the two witnesses have been exaggerating the prosecution's case to somehow rope in accused no.2, who was a Police Patil. We have to also note that PW-4, who is father of Muktabai, has nowhere stated that accused no.2 would even look at Muktabai with lust or attempted to commit rape. Neither PW-1 nor PW-4 even state that Muktabai ever went to the house of PW-5 but PW-5 says that Muktabai used to go to her house and lament about the horrid time she had in her matrimonial home. The position of PW-6 is also similar to PW-5. PW-6 admits that what she has stated in her testimony about Muktabai being called vanjoti or that she received a telephone call a day before the incident from Muktabai and that she was told at that time that she was being ill-treated etc. has not been stated in the statement recorded by the Police. These omissions have been confirmed by PW-8.

7 PW-1, the mother of Muktabai, admits that accused no.3 had got married before Muktabai got married and was residing in a village 8 or 9 kms. away. PW-1 and PW-4 do not even state that accused no.2 was residing in the same house as Muktabai and accused no.1. Therefore, the chances of these two accused even ill-treating Muktabai are not believable particularly, in view of the observations made by this Court earlier on their testimony. Another point is accused no.2 was roped in the incident much

later. In the complaint of PW-1 lodged on 26th November 2005, there is no allegation against accused no.2 but on 30th January 2006 PW-1 had made reference to accused no.2 in the supplementary statement. We have to note that in the meanwhile, efforts were put in by accused no.2 to have the other accused released on bail and probably that was the reason accused no.2 was also dragged into the case. It is quite obvious that accused no.3 also was dragged into the case only because she happened to be daughter of accused no.1. For the cause of depression, the Doctor (PW-7), in the cross examination, has admitted that if a person is not sexually satisfied, he or she may get into depression and if that continues for a long time, it can aggravate and such person may commit suicide. Admittedly, husband of Muktabai was working in a hotel in Mumbai and he was used to come to village two or three times in a year. The fact that PW-1 in her testimony admits that 15 days prior to the date of incident, Muktabai had met them in the bazar of Velha and at that time she was accompanied with accused no.3 and in their presence accused no.3 called Muktabai vanjoti and that she was not needed and Muktabai should leave the house is not mentioned in the statement recorded by the Police. PW-3 also admits that his statement to Police does not contain portions of testimony given in the Court. Considering all these points, the Trial Court acquitted the accused.

8 Law on what would amount to an offence under Section 498A, has been well discussed in catena of judgments. It is settled law that under

Section 498A of IPC, every cruelty is not an offence. The cruelty must be of such a degree as contemplated by the Section, i.e., it must be willful conduct of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb and health of the woman. I cannot conclude there was any such cruelty in this case. Certainly the evidence does not so indicate.

9 The Division Bench of this court in ***Kamlesh Ghanshyam Lohia and Ors. V/s. State of Maharashtra, through the commissioner of police & Ors.***¹ in paragraphs 12 to 15, has observed as under :

“12. The allegations against the petitioners are, therefore, required to be appraised through the aforesaid backdrop. If we take the allegations in the FIR at par, qua the petitioners, at best, the following three allegations can be attributed to the petitioners :

(i) After the first informant and Krishna shifted to Juhu in June 2012, the petitioners occasionally visited them and during those visits, insulted the first informant by calling her fat and dark complexioned.

(ii) On every festive occasion, the family members of Krishna demanded clothes, ornaments and money from her parents and those demands were met.

(iii) All the family members humiliated the first informant by calling her, "infertile" and made her to demand money from her parents.

13. Whether the aforesaid allegations, even if taken at par, would warrant the prosecution of the petitioners is the moot question. It is indisputable that the cruelty under [section 498-A](#) of IPC has a specific legal connotation. Ordinary quarrels, differences of views and wear and tear of life, which every home witnesses, do not fall within the mischief of cruelty which [section 498-A](#) of IPC punishes. Nor, every ill-treatment or harassment falls within its dragnet. To fall within the tentacles of [section 498-A](#), the married woman must have been subjected to cruelty which would drive the woman to commit suicide or to cause grave injury or danger to her life, limb or health, or with a view to coerce her or any person related to her to meet an unlawful demand of property. Mere demand of money or property, unaccompanied by any harassment, would also not fall within the mischief of [section 498-A](#). There has to be a nexus between the demand and the consequent harassment.

14. On the anvil of the aforesaid legal position, if the allegations enumerated above, are weighed, it becomes evident that the first

1. 2019 SCC online Bom 1762

allegation of insulting the first informant after she shifted to Juhu in the year 2010, is of general nature. The allegation is stale as well. By no stretch of imagination, it can be stated that the alleged conduct had the propensity to drive the first informant to commit suicide or cause harm to herself.

15. The second allegation of all the family members of Krishna demanding money, clothes and ornaments on each of the festive occasions is also of general nature and bereft of any specific instance and authorship. The said allegations, at the highest, would indicate that on festive occasions certain articles were demanded. In the absence of the allegation that the first informant was subjected to harassment either in order to meet the unlawful demands of property or on her failure to meet such demands, the second allegation loses the incriminating tendency. “

10 A Learned Single Judge of this Court in ***Neeraj Subhash Mehta V/s. The State of Maharashtra***,² in paragraphs 9 and 10 has observed as under :

“9. Section 113A of the Evidence Act prescribes rule of presumption in case of suicidal death by a married woman. Whenever the question arose as to whether commission of suicide by a woman has been abetted by her husband or relatives of her husband and it is shown that she had committed suicide within the period of seven years of her marriage and that her husband or relatives of her husband had subjected her to cruelty, then the court may presume “having regard to all other circumstances of the case” that such a suicide has been abetted by her husband or relatives of her husband. It is, thus, clear that, this presumption cannot be raised automatically on proof of suicidal death within seven years of marriage and subjecting a married woman to cruelty. Something more is required to be seen for drawing this presumption.

10. By catena of judgments of this court as well as Apex Court what amounts to cruelty as envisaged by Explanation to Section 498A of IPC is explained. Cruelty implies harsh and harmful conduct with certain intensity and persistence. It covers acts causing both physical and mental agony and torture or tyranny and harm as well as unending accusations and recrimination reflecting bitterness putting the victim thereof to intense miscarries. The conduct, in order to prove guilt, must be such as strongly stirring up the feeling in the mind of a married woman that life is now not worth living and she should die, being the only option left. In other words, provisions of Section 498A of the IPC envisages intention to

2. 2017 SCC Online Bom 62

drawing or force a woman to commit suicide by unabettled persistence and grave cruelty. A willful conduct of such a nature as is likely to propel or compel a married woman to commit suicide or to cause grave injury or danger to her life, limb or health is required to be established. In other words, matrimonial cruelty is included from the definition of legal cruelty. To put it in other words, ordinary petulance and discord or differences in domestic life does not amount to cruelty. By keeping this aspect in mind, let us prima facie examine the instant case for a limited purpose as to whether the applicant / accused is entitled for liberty. If the impugned judgment and order of the trial court is perused, then it is seen that the reasoning part is in paragraph 65 of the judgment. Reliance is placed on evidence of PW1 to PW3 by the learned trial court. It is observed that the dispute was over the issue of the deceased having made "kaccha chapati." Further observations are to the effect that this was too trivial matter to invoke extreme and harsh response of calling her brother and parents. In other words, the learned trial Judge was very well aware of the fact that the incident of commission of suicide was preceded by a trivial incident in the matrimonial life of Neha. Still, without further discussion, offence punishable under Section 498A of the IPC is held to be proved. Then by taking aid of Section 106 of the Evidence Act, as well as Section 113A thereof, it is held that the offence punishable under Section 306 of the IPC is proved."

11 As regards Section 306, it reads as under :

"306. Abetment of suicide — If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

What is abetment and who is an abettor can be found in Sections 107 and 108 of IPC which read as under:

"107: Abetment of a thing:- A person abets the doing of a thing, who:- (1) Instigates any person to do that thing; or (2) Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or (3) Intentionally aids, by any act or illegal omission, the doing of that thing."

"108. Abettor.—A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor. "

12 Here is the case of abetment by instigation. When is a person said to instigate another? The word 'instigate' literally means to goad, or urge, or to provoke, or incite, or encourage, to do an act, which the person, otherwise would not have done. It is well settled, that in order to amount to abetment, there must be *mens rea* or community of intention. Without knowledge or intention, there can be no abetment and the knowledge and intention must relate to the act said to be abetted, i.e., suicide, in this case. In order to constitute 'abetment by instigation', there must be a direct incitement to do the culpable act. This issue has been discussed by various High Courts and Supreme Court of India and some of those pronouncements are discussed here.

13 A Learned Single Judge of the Kerala High Court in ***Cyriac, S/o. Devassia and another V/s. Sub-Inspector of Police, Kaduthuruthy and another***,³ dealt with extensively the concept of abetment to commit suicide after referring to a number of pronouncements including the decision of the Supreme Court of India.

The Learned Single Judge ultimately summarized the legal position as follows :

" 17. From the discussion already made by me, I hold as follows : The act or conduct of the accused, however, insulting and abusive those may be, will not by themselves suffice to constitute abetment of commission of suicide, unless those are reasonably capable of suggesting that the accused intended by such acts consequence of suicide. Even if the words uttered by the accused or his conduct in public are sufficient to demean or humiliate the deceased and even

3. 2005 Criminal Law Journal 4322

to drive him to suicide, such acts will not amount to instigation or abetment of commission of suicide, unless it is established that the accused intended by his acts, consequence of a suicide. It is not enough if the acts of the accused cause persuasion in the mind of the deceased to commit suicide.

18. An indirect influence or an oblique impact which the acts or utterances of the accused caused or created in the mind of the deceased and which drove him to suicide will not be sufficient to constitute offence of abetment of suicide. A fatal impulse or an ill-fated thought of the deceased, however unfortunate and touchy it may be, cannot fray the fabric of the provision contained in Section 306 IPC. In short, it is not what the deceased 'felt', but what the accused 'intended' by his act which is more important in this context."

14 In paragraph 19 of ***Shivaji Shitole and Ors. V/s. State of Maharashtra & Anr.***⁴ this Court has summed up the legal position on Section 306. Paragraph 19 reads as under :

"19. The legal position that emerges from the above discussion is as follows : Even if a person would commit suicide because of the torments of an accused, the accused cannot be said to have abetted the commission of suicide by the deceased, unless the accused would intend, while causing torments to the victim/deceased, that he should commit suicide. Even if the rigour of this proposition is diluted, still, the least that would be required is, that it should be shown that the accused could reasonably foresee that because of his conduct, the victim was almost certain or at least quite likely to commit suicide. Unless that the victim should commit suicide, is either intended, or can be reasonably foreseen and expected a person cannot be charged of having abetted the commission of suicide, even if the suicide has been committed as a result of some of the acts committed by the accused. A perusal of the reported judgments show that even in cases where the accused had uttered the words such as "go and die", in abusive and humiliating language, which, allegedly, led to the committing of suicide, it was held that it would not amount to instigation and that consequently, there would be no offence of abetment of suicide."

15 The Apex Court in the judgment of ***Ude Singh & Ors. V/s. State of Haryana***⁵, has pithily explained what amounts to the abetment.

4. 2012(3) Bom.C.R. (CRI) 532

5. 2019 SCC Online SC 924

Paragraphs 37 to 40 of the said judgment read as under :

37. Thus, "abetment" involves a mental process of instigating a person in doing something. A person abets the doing of a thing when: (i) he instigates any person to do that thing; or (ii) he engages with one or more persons in any conspiracy for the doing of that thing; or (iii) he intentionally aids, by acts or illegal omission, the doing of that thing. These are essential to complete the abetment as a crime. The word "instigate" literally means to provoke, incite, urge on or bring about by persuasion to do anything.

38. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

39. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above-referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of [Section 306 IPC](#). If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept

on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.

40. We may also observe that human mind could be affected and could react in myriad ways; and impact of one's action on the mind of another carries several imponderables. Similar actions are dealt with differently by different persons; and so far a particular person's reaction to any other human's action is concerned, there is no specific theorem or yardstick to estimate or assess the same. Even in regard to the factors related with the question of harassment of a girl, many factors are to be considered like age, personality, upbringing, rural or urban set ups, education etc. Even the response to the ill-action of eve-teasing and its impact on a young girl could also vary for a variety of factors, including those of background, self-confidence and upbringing. Hence, each case is required to be dealt with on its own facts and circumstances.

16 Paragraph 8 of the unreported judgment of the Apex Court in

Rajesh V/s. State of Haryana⁶ reads as under :

8. Conviction under Section 306 IPC is not sustainable on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused, which led or compelled the person to commit suicide. In order to bring a case within the purview of Section 306 IPC, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC. (See Amalendu Pal alias Jhantu V. State of West Bengal⁷)

17 The Courts have held that the evidence must suggest or indicate that the accused knew or had a reason to believe that deceased would commit suicide. There is no evidence to speak of to even suggest this.

6. Delivered on 18-1-2019 in Criminal Appeal No.93 of 2019

7. (2010) 1 SCC 707

18 The Apex Court in ***Ghurey Lal V/s. State of U.P.***⁸ has culled out the factors to be kept in mind by the Appellate Court while hearing an appeal against acquittal. Paragraph Nos.72 and 73 of the said judgment read as under :

72. The following principles emerge from the cases above :

1. The appellate court may review the evidence in appeals against acquittal under sections 378 and 386 of the Criminal Procedure Code, 1973. Its power of reviewing evidence is wide and the appellate court can reappreciate the entire evidence on record. It can review the trial court's conclusion with respect to both facts and law.

2. The accused is presumed innocent until proven guilty. The accused possessed this presumption when he was before the trial court. The trial court's acquittal bolsters the presumption that he is innocent.

3. Due or proper weight and consideration must be given to the trial court's decision. This is especially true when a witness' credibility is at issue. It is not enough for the High Court to take a different view of the evidence. There must also be substantial and compelling reasons for holding that trial court was wrong.

73. In 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;

8. (2008) 10 SCC 450

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 judgment 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.

19 The Apex Court in many other judgments including ***Murlidhar & Ors. V/s. State of Karnataka***⁹ has held that unless, the conclusions reached by the trial court are found to be 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, Appellate Court should not interfere with the conclusions of the Trial Court. Apex Court also held that 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.

We must also keep in mind that there is a presumption of innocence in favour of respondent and such presumption is strengthened by

9. (2014) 5 SCC 730

the order of acquittal passed in his favour by the Trial Court.

The Apex Court in *Ramesh Babulal Doshi V/s. State of Gujarat*¹⁰ has held that if the Appellate Court holds, for reasons to be recorded that the order of acquittal cannot at all be sustained because Appellate Court finds the order to be palpably wrong, manifestly erroneous or demonstrably unsustainable, Appellate Court can reappraise the evidence to arrive at its own conclusions. In other words, if Appellate Court finds that there was nothing wrong or manifestly erroneous with the order of the Trial Court, the Appeal Court need not even re-appraise the evidence and arrive at its own conclusions.

20 I do not find anything palpably wrong, manifestly erroneous or demonstrably unsustainable in the impugned judgment. From the evidence available on record, there is nothing to substantiate the charge leveled against the accused.

21 There is an acquittal and therefore, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to the accused under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured acquittal, the presumption of their innocence is further reinforced, reaffirmed and strengthened by the Trial Court. For acquitting the accused, the Trial Court

10. 1996 SCC (cri) 972

observed that the prosecution had failed to prove its case.

22 In the circumstances, in my view, the opinion of the Trial Court cannot be held to be illegal or improper or contrary to law. The order of acquittal, in my view, cannot be interfered with. I cannot find any fault with the judgment of the Trial Court.

23 Appeal dismissed.

(K.R. SHRIRAM, J.)

Gauri A.
Gaekwad

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