

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4165 of 2025

Arising Out of PS. Case No.-54 Year-2018 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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Dular Chand Mochi S/o Raghuni Mochi R/o vill - Parjuar Dih, Tol Parjuar,
P.S. - Arer, Dist.- Madhubani

... .. Appellant/s

Versus

1. The State of Bihar
2. Wakil Jha S/o Late Saryug Jha R/o vill - Parjuar Dih, Tol Parjuar, P.S.- Arer,
Disttt.- Madhubani
3. Prakash Jha S/o Saryug Jha R/o vill - Parjuar Dih, Tol Parjuar, P.S.- Arer,
Disttt.- Madhubani
4. Pradip Kumar S/o Wakil Jha R/o vill - Parjuar Dih, Tol Parjuar, P.S.- Arer,
Disttt.- Madhubani
5. Nilam Devi W/o Wakil Jha R/o vill - Parjuar Dih, Tol Parjuar, P.S.- Arer,
Disttt.- Madhubani
6. Kaanti Devi W/o Prakash Jha R/o vill - Parjuar Dih, Tol Parjuar, P.S.- Arer,
Disttt.- Madhubani
7. Khushi Devi W/o Pradip Kumar Jha R/o vill - Parjuar Dih, Tol Parjuar, P.S.-
Arer, Disttt.- Madhubani

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Kumari Pallavi
For the Respondent/s : Mr.Syed Ashfaque Ahmad

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 01-11-2025

Heard both sides.

2. The present appeal is directed against the order
and judgment dated 28.06.2025 passed by the learned ADJ Ist
cum Special Judge SC/ST, Special Judge Children Court,
Madhubani in C.R. No. 54 of 2018, T.R. No. 848 of 2022
registered under Sections 323, 379, 354(B) of the IPC and 3(1)



(x) of the SC/ST (POA) Act whereby and whereunder Respondent nos. 2 to 7 have been acquitted by the Trial Court from the charges under Sections 341, 323, 504/34 of the IPC and Section 3(1)(x) of the SC/ST (POA) Act.

3. As per prosecution case, complainant was proceeding to village Loha for some urgent work and when she reached in front of the house of respondent no. 2, namely, Wakil Jha, he stopped the complainant and started abusing her. It is alleged that all the accused persons came out from their houses and reached on the road. It is further alleged that respondent no. 2 exhorted all the accused persons to assault the complainant, upon which all the accused persons started abusing the complainant by calling her caste name and assaulted her by means of fists. Thereafter, respondent no. 4, namely, Pradeep Jha tore down saree and blouse of the complainant and undressed her. It is alleged that respondent no. 3, namely, Prakash Jha snatched silver chain worth Rs. 3500/- from the neck of the complainant and upon hullah, husband of the complainant came there, then, accused persons also assaulted him and took his thumb impression on white page. It is further alleged that all the accused persons have abused, assaulted and tore down the clothes of complainant and undressed her and snatched the



necklace of the complainant. It is further alleged that the occurrence took place in the presence of people with an intention to humiliate the complainant and her husband. It is alleged that after the incident, complainant went to the police station but complaint was not taken, so complainant has filed the said application.

4. On the basis of complaint petition, C.R. No. 54 of 2018 under Sections 323, 379, 354(B) of the IPC and 3(1)(x) of the SC/ST (POA) Act has been filed. The complainant of the case Nirsi Devi, W/o- Dular Chand Mochi has given SA on oath before the Court and also produced three (3) Inquiry Witnesses namely 1. Mohan Jha 2. Bhogendra Rai and 3. Dular Chand Mochi. They have supported the complainant story and learned trial court has found the prima facie case for the offences punishable u/s 341, 323, 504 of the IPC and 3(1)(x) of SC/ST Act against all the six accused persons named in the complaint petition namely 1. Wakil Jha 2. Prakash Jha 3. Pradeep Kumar 4. Neelam Devi 5. Kanti Devi 6. Khushi Devi.

5. The learned trial court has taken cognizance against above named accused persons for the offences u/s 341, 323, 354, 504/34 of the IPC and 3(1)(x) SC/ST (POA) Act and after Inquiry found prima facie case u/s 341, 323, 504 of IPC



and 3(1)(x) SC/ST (POA) Act.

6. The charge has been framed against the above named accused persons for the offence punishable u/s 341, 323, 504/34 of the IPC and 3(1)(x) SC/ST (POA) Act and explained to them in simple Hindi language to which they pleaded not guilty and claimed to be tried.

7. The prosecution has relied upon following documentary evidence:-

Ext.-X :- Xerox copy of certified judgment of complaint case no. 1867 of 2012 passed by Ajay Kumar, J.M. Ist, Class, Benipatti, Madhubani.

8. The defence has not adduced any oral or documentary evidence.

9. Defence of the respondent nos. 2 to 7 as gathered from the line of cross examination of prosecution witnesses as well as from statement under Section 313 of the Cr.P.C. is that of total denial.

10. Learned counsel for the appellant submits that P.W. 1 and P.W. 2 has supported the version of case and the same was not considered by the learned trial court. He further submits that the learned trial court has given finding that P.W. 1 and P.W. 2 are chance or interested witness and the finding



given by the concerned court is factually wrong as P.W. 1 and P.W. 2 are not chance witness rather they are neighbor and they have clearly supported the case of prosecution. He further submits that the concerned court has not considered the material available on record while recording the judgment of acquittal and the same is not justified and legal and, hence, interference is needed. He further submits that complainant husband namely Dular Chand Mochi (P.W.3) is also victim of the same occurrence and he has also supported the case of prosecution.

11. Learned APP appearing for the State submits that complainant who is the victim of the said occurrence has already died and at the time of occurrence, none of the witnesses was alongwith the complainant. In this way, they are not eye witness of the said occurrence. He further submits that complainant has not examined. He further submits that the learned trial court has clearly recorded finding in paragraph 13 that husband has also not reached at the place at the time of occurrence rather he reached the place of occurrence after end of the occurrence. In this way, the judgment of acquittal passed by the learned trial court is justified and legal and there is no reason to differ from the finding of concerned court and, hence, no interference is needed.



12. In criminal appeal against acquittal what the Appellate Court has to examine is whether the finding of the learned trial court is perverse and *prima facie* illegal. Once the Appellate Court comes to the finding that the grounds on which the judgment is based is not perverse, the scope of appeal against acquittal is limited considering the fact that the legal presumption about the innocence of the accused is further strengthened by the finding of the Court. At this point, it is imperative to consider the decision of the Hon'ble Supreme Court in the case of ***Surajpal Singh & Ors. Versus The State*** reported in ***1952 SCR 193***, paragraph 13 of which reads as under:

“..the High court has full power to review the evidence upon which the order of acquittal was founded. But it is equally well settled that the presumption of innocence of the accused is further reinforced by his acquittal by the trial Court and the findings of the trial Court which had the advantage of seeing the witnesses and hearing their evidence can be reversed only for very substantial and compelling reasons.”

13. In the case of ***Ghurey Lal versus State of Uttar Pradesh*** reported in ***(2008) 10 SCC 450*** in paragraph 75, the



Hon'ble Supreme Court reiterated the said view and observed as under:

“The trial Court has the advantage of watching the demeanour of the witnesses who have given evidence, therefore, the appellate court should be slow to interfere with the decisions of the trial court. An acquittal by the trial court should not be interfered with unless it is totally perverse or wholly unsustainable.”

14. The trial court has analyzed the evidence of PW-1 Mohan Jha, PW-2 Bhogendra Rai, PW-3 Dular Chand Mochi.

15. PW-1 Mohan Jha :- The learned trial court has recorded the finding that P.W. 1 is merely a chance witness as he was unable to say regarding the family members of Wakil Jha (Respondent No. 2) present at the place of occurrence. It is admitted by P.W. 1 in his cross-examination that there is land dispute with Respondent No. 2. The concerned court has recorded the finding that due to village politics, complainant has filed this case. The learned counsel for the State has rightly been pointed out that at the time of occurrence, none of the witnesses was alongwith the complainant which is quite evident from initial version of complaint.

16. The learned trial court has recorded the finding



that P.W. 1 is a chance witnesses and is quite evident that he cannot point out the family members of the Wakil Jha (respondent no. 2) at the place of occurrence and the case has been filed on the ground of village politics and the contention of State counsel is quite evident that none of the witnesses were present at the place of occurrence. In this way, statement of P.W. 1 is not convincing and does not inspire confidence. In this way, finding of learned trial court is quite relevant to negate the evidence of P.W. 1.

17. PW-2 Bhogendra Rai:- During the course of cross-examination, P.W. 2 has admitted that Rekha Devi is his wife and she is a teacher in the Parjuaar School and she is accused of defalcation case. P.W. 2 is also accused in the said defalcation case. P.W. 2 and his wife were sent to custody in the said defalcation case and wife of P.W. 2 is also dismissed from the job. During the course of cross-examination, P.W. 2 has deposed that the said defalcation case was instituted on the petition of Wakil Jha (respondent no. 2). During the course of cross-examination, P.W. 2 has deposed that when he reached at the place of occurrence, 25 to 30 persons were gathered.

18. The learned trial court has recorded the finding as to why P.W. 2 has deposed against respondent(accused). P.W.



2 and his wife were accused in defalcation case which was filed by Respondent No. 2, Wakil Jha. The reason cited by the learned trial court that P.W. 2 has given false statement against Wakil Jha (respondent no. 2) on the ground that Bhogendra Rai (P.W. 2) and his wife were accused in defalcation case and both were sent to custody and P.W. 2 is also not present at the place of occurrence. In this way, statement of P.W. 2 is not convincing and does not inspire confidence. In this way, finding of learned trial court is quite relevant to negate the evidence of P.W. 2.

19. PW-3 Dular Chand Mochi :- He has stated that he reached at the place of occurrence at 09:15 AM and occurrence had already taken place at 09:00 AM as the same is evident from para 2 of the said judgment. In this way, he was not present at the time of occurrence. P.W. 3 has deposed that about 15 to 20 persons were gathered at the place of occurrence when he reached at the place of occurrence.

20. The learned trial court has recorded the finding that P.W. 3 was not present at the place of occurrence as he reached at the place of occurrence after the occurrence had taken place. P.W. 3 is not the eye witness of the alleged occurrence and the concerned court has cited the reason that P.W. 3 was not alongwith his wife at the time of occurrence.



21. The learned trial court has recorded the finding in paragraph 13 of the judgment of acquittal that the complainant has already died. P.W. 3 who is the husband of the complainant, was not present with the complainant at the time of occurrence. P.W. 2 has admitted that a defalcation case was registered against the P.W. 2 and his wife on the petition of Wakil Jha and in the said case, both were sent to custody. So, P.W. 2 has given false statement against the Wakil Jha.

22. I am dealing with an appeal against acquittal and shall keep in mind the principles governing the cases of appeal against acquittal. The principles have been reiterated by the Hon'ble Supreme Court in catena of decisions.

23. In the case of ***H.D. Sundara and Others vs. State of Karnataka*** reported in ***(2023) 9 SCC 581***, Hon'ble Supreme Court, in paragraph 8, has held as follows :

“8. In this appeal, we are called upon to consider the legality and validity of the impugned judgment State of Karnataka v. H.K. Mariyapp, 2010 SCC OnLine Kar 5591 rendered by the High Court while deciding an appeal against acquittal under Section 378 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C”). The principles which govern the exercise of appellate jurisdiction while dealing with an appeal



against acquittal under Section 378 Cr.P.C can be summarized as follows:

“8.1. The acquittal of the accused further strengthens the presumption of innocence;

2. The appellate court, while hearing an appeal against acquittal, is entitled to the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and 8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.”

24. In Chandrappa Vs. State of Karnataka, (2007) 4 SCC 415, Hon’ble Supreme Court after referring to several authorities has held as follows:

“42. From the above decisions, in our considered



view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him 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 his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

(Emphasis Supplied)

25. In **Murugesan Vs. State, (2012) 10 SCC 383,**

Hon’ble Supreme Court has held as follows:



“ 18. Before proceeding any further it will be useful to recall the broad principles of law governing the power of the High Court under Section 378 CrPC, while hearing an appeal against an order of acquittal passed by a trial Judge.

19. An early but exhaustive consideration of the law in this regard is to be found in the decision of Sheo Swarup v. King Emperor [(1933-34) 61 IA 398 : AIR 1934 PC 227 (2)] wherein it was held that the power of the High Court extends to a review of the entire evidence on the basis of which the order of acquittal had been passed by the trial court and thereafter to reach the necessary conclusion as to whether order of acquittal is required to be maintained or not. In the opinion of the Privy Council no limitation on the exercise of power of the High Court in this regard has been imposed by the Code though certain principles are required to be kept in mind by the High Court while exercising jurisdiction in an appeal against an order of acquittal.....

20. The principles of law laid down by the Privy Council in Sheo Swarup(supra) have been consistently followed by this Court in a series of subsequent pronouncements

21. A concise statement of the law on the issue that had emerged after over half a century of evolution since Sheo Swarup (Supra) is to be found in para 42 of the Report in **Chandrappa v. State of Karnataka [(2007) 4 SCC 415**

32. In the above facts can it be said that the view taken by the trial court is not a possible view? If the answer is in the affirmative, the jurisdiction of the High Court to interfere with the acquittal of the appellant-accused, on the principles of law referred to earlier, ought not to have been exercised. In other words, the reversal of the acquittal could have been made by the High Court only if the conclusions recorded by the learned trial court did not reflect a possible view. It must be emphasised that the inhibition to interfere must be perceived only in a situation where the view



taken by the trial court is not a possible view. The use of the expression “possible view” is conscious and not without good reasons. The said expression is in contra²³. Having dealt with the principles of law that ought to be kept in mind while considering an appeal against an order of acquittal passed by the trial court, we may now proceed to examine the reasons recorded by the trial court for acquitting the accused in the present case and those that prevailed with the High Court in reversing the said conclusion and in convicting and sentencing the appellant-accused.

33. The expressions “erroneous”, “wrong” and “possible” are defined in Oxford English Dictionary in the following terms:

“erroneous.— wrong; incorrect.

wrong.—(1) not correct or true, mistaken.

(2) unjust, dishonest, or immoral.

possible.—(1) capable of existing, happening, or being achieved.

(2) that may exist or happen, but that is not certain or probable.”

34. It will be necessary for us to emphasise that a possible view denotes an opinion which can exist or be formed irrespective of the correctness or otherwise of such an opinion. A view taken by a court lower in the hierarchical structure may be termed as erroneous or wrong by a superior court upon a mere disagreement. But such a conclusion of the higher court would not take the view rendered by the subordinate court outside the arena of a possible view. The correctness or otherwise of any conclusion reached by a court has to be tested on the basis of what the superior judicial authority perceives to be the correct conclusion. A possible view, on the other hand, denotes a conclusion which can reasonably be arrived at regardless of the fact where it is agreed upon or not by the higher court. The fundamental distinction between the two situations have to be kept in mind. So long as the view taken by the trial court can be reasonably formed, regardless of whether the High Court agrees with the same or not, the view taken by the trial court cannot be interdicted and that of the High Court supplanted over and above the view of the trial court.



35. A consideration on the basis on which the learned trial court had founded its order of acquittal in the present case clearly reflects a possible view. There may, however, be disagreement on the correctness of the same. But that is not the test. So long as the view taken is not impossible to be arrived at and reasons therefor, relatable to the evidence and materials on record, are disclosed any further scrutiny in exercise of the power under Section 378 CrPC was not called for.”

(Emphasis Supplied)

26. In **Hakeem Khan Vs. State of M.P., (2017) 5**

SCC 719 , Hon’ble Supreme Court has held as follows:

“ 9 [Ed. : Para 9 corrected vide Official Corrigendum No. F.3/Ed.B.J./29/2017 dated 13-7-2017.] . Having heard the learned counsel for the parties, we are of the view that the trial court's judgment is more than just a possible view for arriving at the conclusion of acquittal, and that it would not be safe to convict seventeen persons accused of the crime of murder i.e. under Section 302 read with Section 149 of the Penal Code....”

(Emphasis Supplied)

27. In **Babu Sahebagouda Rudragoudar Vs. State of Karnataka, 2024 SCC Online SC 561**, Hon’ble Supreme

Court, after referring to relevant precedents, has observed as follows:

“39. Thus, it is beyond the pale of doubt that the scope of interference by an appellate Court for reversing the judgment of acquittal recorded by the trial Court in favour of the accused has to be exercised within the four corners of the **following principles**:

- (a) That the judgment of acquittal suffers from patent perversity;
- (b) That the same is based on a misreading/omission



to consider material evidence on record;

(c) That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

40. The appellate Court, in order to interfere with the judgment of acquittal would have to record pertinent findings on the above factors if it is inclined to reverse the judgment of acquittal rendered by the trial Court.”

(Emphasis Supplied)

28. In the present case, from the perusal of record it is crystal clear that complainant had died. PWs 1, 2 and 3 as contended by the learned counsel for the State that they are not present with the complainant at the time of occurrence. The concerned court has recorded the finding that P.W. 1 is merely a chance witness as he was unable to say regarding the family members of Wakil Jha (respondent no. 2) present at the place of occurrence. The learned trial court has already recorded the finding that from the evidence of P.W. 1, it appears that due to village politics, complainant has filed this case against the respondents. The learned trial court has recorded the finding that P.W. 2 has given false evidence in the present case as he was accused in the defalcation case which was filed by Wakil Jha (respondent no. 2) and in the said defalcation case, P.W. 2 and his wife were sent to jail.

29. Thus, in the opinion of this Court, the trial Court



has taken a plausible view based on the evidence available on the record. The prosecution has failed to prove the case beyond the shadow of reasonable doubt. The view taken by the trial Court cannot be held to be bad or perverse. Under such circumstances, no case for interference with the impugned judgment is made out.

30. In the result, the present criminal appeal preferred against the judgment of acquittal dated 28.06.2025 passed by the learned ADJ Ist cum Special Judge SC/ST, Special Judge Children Court, Madhubani in CR No. 54 of 2018, T.R. No. 848 of 2022 is dismissed at the admission stage itself.

(Alok Kumar Pandey, J)

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