IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL NO. 1404 of 2003

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA Sd/-

and
HONOURABLE MR. JUSTICE R. T. VACHHANI Sd/-

==========

Approved for Reporting	Yes	No
		No

==========

STATE OF GUJARAT
Versus
VASHRAM MULJIBHAI SOLANKI

==========

Appearance:
MR BHARGAV PANDYA, APP for the Appellant(s) No. 1
DR. HARDIK K RAVAL(6366) for the Opponent(s)/Respondent(s) No. 1
HCLS COMMITTEE(4998) for the Opponent(s)/Respondent(s) No. 1

==========

CORAM:**HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 08/12/2025

ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE ILESH J. VORA)

1. Here is the Appeal by the State against the judgment and order of acquittal.

2. Being dissatisfied by the judgment and order passed by the learned Sessions Judge, Jamnagar, passed in Sessions Case No.165 of 2002, dated 30.06.2003, acquitting the respondent from the offence under Section 302 of the IPC, the State has preferred instant appeal under Section 378 of the Cr.P.C.

3. This Court has heard Mr. Bhargav Pandya, learned Additional Public Prosecutor and Dr. Hardik K. Raval, learned advocate for the respective parties.

4. Brief facts giving rise to file the present Appeal are that, the accused Vashram was tried and prosecuted for the offence of murder. The deceased aged about 3 years was his niece. The deceased along with her mother, came to house of the accused. When the deceased was playing in the house, the accused Vashram grabbed her and her head was smashed into the ground of the house, as a result, due to severe head injury, she died on the spot. The mother of the deceased lodged an FIR with City "B" Division Police Station, Jamnagar about the act of murder allegedly done by the accused herein and also disclosed that, he was not mentally stable and was on medication. On the basis of said FIR and upon filing of chargesheet, the accused was put on trial. Learned Sessions Judge has acquitted the accused observing that, the act was done by reason unsoundness of the mind and at relevant time, the accused was incapable knowing the nature of the act and extended the benefit of exception as provided under Section 84 of the IPC.

5. In order to prove the charge, the prosecution has examined as many as 9 witnesses and produced 14 documents. Before the trial court, the PW.1, PW.2 and PW.3 being mother and family members of the deceased, have stated the act of the accused and further they have admitted that, before the incident, the accused was suffering from mental illness and his treatment was going on with the Mental

Hospital, Jamnagar and since last 10 years before the incident, his treatment was continued and on the day of incident also, he was on medication. In order to prove the homicidal death, the prosecution has examined PW.6-Dr. Sunil Bhatu and according to his opinion, the cause of death was head injuries. So, in nutshell, the prosecution has successfully proved the factum of incident, the manner in which the deceased was killed by the accused and the mental illness of the accused. It is not in dispute that, during the trial, the accused was referred to Mental Hospital and it was confirmed by the Panel Doctors that, the accused was lunatic. However, he was put on trial without any further order of the court on the aspect of his right as conferred under Section 328 of the Cr.P.C. and Section 84 of the IPC.

6. In view of the aforesaid facts and circumstances, this acquittal appeal has been preferred by the State.

7. Mr. Bhargav Pandya, learned Additional Public Prosecutor appearing for the appellant – State assailing the judgment and order of acquittal, has submitted that the findings of acquittal are contrary to law and evidence on record and the findings recorded are palpably erroneous and based on the irrelevant material. That, so as to seek exoneration from liability of an act under Section 84 of the IPC, the accused failed to prove his legal insanity and therefore, when he was capable of understanding the proceedings of the trial as well as the act allegedly done by him, he cannot claim the benefit of exception.

8. In such circumstances, as referred above, it has been submitted

that while acquitting the respondent accused, the trial Court has discarded and ignored the truthful, reliable and acceptable evidence and as such, no cogent reasons being assigned while discarding such evidence. Therefore, it is submitted that the conclusion of acquittal recorded by the Trial Court is contrary to the evidence on record and upon erroneous understanding of law. Thus, it is prayed that the prosecution has succeeded in proving the charge against the respondent-accused and the judgment and order of acquittal be set aside and accused may be convicted and sentenced for the offence as referred above.

9. Dr. Hardik Raval, learned counsel appearing for the respondent-accused has submitted that the High Court in a case of Appeal against the acquittal, can interfere only when there are compelling substantial reasons for doing so and more particularly, the findings are without reasons and unreasonable and contrary to the evidence. In the facts of the present case, during the investigation, previous history of medical illness was revealed and the I.O. of the case was duty bound to investigate the case on this line and refer the accused to medical examination and place that evidence before the court and if it is not done, it creates a serious infirmity in the prosecution case and the benefit of doubt has to be given to the accused. In the present case, the trial court has considered the testimonies of the family members and witnesses regarding the mental condition of the accused and in absence of any motive to kill his own niece and failure of the prosecution to disprove the plea of insanity, creates a strong presumption of legal insanity. Therefore, the trial court has rightly by extending the benefit

of Section 84, recorded that, the accused at the time of incident, by reason of unsoundness of mind, was incapable of knowing the nature of the act.

10. In such circumstances, referred to above, learned counsel appearing for the respondent-accused, has submitted that the Trial Court while acquitting the accused, assigned sound reasons on the evidence as well as law and therefore, the judgment does not suffer any infirmity warranting interference by this Court.

11. Before proceeding to address the rival submissions, we would like to place on record the scope of interference in an appeal against the acquittal and when the same is justified. In exceptional cases, where there are compelling circumstances and the judgment under appeal is found to be perverse, the appellate court can interfere with the judgment of acquittal. The Appellate Court should bear in mind the presence of innocence of the accused and further that, the trial Court's acquittal bolsters the presumption of his innocence. Interference in a routine manner, where the other view of possible should be avoided, unless there are reasons for interference.

12. In the present case the issue falls for our consideration as to whether the trial Court was justified in acquitting the accused?

13. We have carefully examined the oral as well as documentary evidence and perused the findings of acquittal rendered by the Trial Court.

14. In the instant case, the witnesses have categorically stated that, the accused-respondent at the time of and before the incident, was suffering from mental illness. The committal court had referred the accused to the Mental Hospital and the Panel Doctor opined that, the accused is suffering from Paranoid Schizophrenia. Even the Sessions Court on the application tendered by the accused, referred him to the Mental Hospital. Despite of this, he was put on trial. The I.O. (PW.9) was having knowledge that, the accused was mentally ill as in the FIR, the factum of mental illness being disclosed by the complainant and all the witnesses reiterated the same facts in their statements. It was the duty of the I.O. to refer the accused for medical examination and place the case papers before the court. In other words, there was enough material in support of plea of mental illness and in that view of the matter, the burden shifts to the prosecution to rebut the same. However, the prosecution failed to rebut their burden. Therefore, the plea of insanity, as claimed, has been proved and in absence of rebuttal evidence, the trial court has rightly acquitted the accused. Thus, therefore, the view of the Trial Court as to the insanity of the accused is possible and plausible view and the Trial Court while analyzing the evidence has assigned cogent and sound reasons and therefore, findings of acquittal are reasonable and based on the evidence on record and we do not find any perversity in the findings of acquittal so as to interfere. Thus, in our considered opinion, the Trial Court was justified in acquitting the accused and we are in complete agreement with the findings, ultimate conclusion and resultant order of acquittal recorded by the Court below and hence finds no reason to interfere

with the same.

15. With the observations as aforesaid, the appeal is accordingly **dismissed**. Registry is directed to send back the R & P to the Trial Court. Bail bonds are cancelled, if any, and surety is discharged.

Sd/-
(ILESH J. VORA,J)

Sd/-
(R. T. VACHHANI, J)

TAUSIF SAIYED

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: TAUSIFAHMED SAIYED(HC01401), PRIVATE SECRETARY, at High Court of Gujarat on 10/12/2025 14:23:18