



2025:DHC:9194



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Reserved on : 14.10.2025
Pronounced on : 15.10.2025

+ **CRL.A.836/2016**

STATEAppellant

Through: Mr. Pradeep Gahalot, APP for State

versus

PRAMOD YADAVRespondent

Through: Mr. Azhar Qayum, Advocate

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present appeal has been preferred by the State under Section 378(4) Cr.P.C. seeking setting aside of the impugned judgment dated 14.01.2015 passed by the learned Additional Sessions Judge-04, Rohini Courts, Delhi, in SC No. 80/01/14 arising out of FIR No. 05/2011 registered under Sections 308/452/341/392/34 IPC at P.S. Jahangir Puri, whereby the Trial Court acquitted the respondent of all charges.

2. The background facts in nutshell are that the complainant/injured, *Chotu*, had preferred a complaint under Section 156(3) Cr.P.C., on which the FIR in the present case came to be registered by virtue of an order of the learned Judicial Magistrate. The complainant alleged that on 13.09.2009 at about 9:30 p.m., the accused along with his associates entered his house, damaged household articles, and committed theft of Rs.8,000/-. The accused



also inflicted injuries upon the complainant and his wife with a knife and rods. On the complainant being admitted to BJRM Hospital, DD No. 35A dated 12.09.2009 came to be registered at P.S. Jahangir Puri. The complainant received about 28 stitches, and his front tooth was also broken during the assault. The respondent was arrested on 05.08.2011; however, his other associates were never traced. Charges under Sections 457/342/392/427/308/34 IPC were framed against the respondent, to which he pleaded not guilty and claimed trial.

3. The prosecution examined a total of 8 witnesses, the primary witnesses being the complainant and his wife, who were examined as PW-3 and PW-4 respectively, as well as one Smt. *Kesar*, who was examined as PW-2.

4. The complainant was examined on 06.09.2012, when he deposed that in the year 2010, 5-6 persons entered his house and gave him beatings. Out of the said persons, he knew the name of only one, i.e., "*Mullah*", who was not arrested. He further stated that a blow was given from behind on his head, but he did not know whether it was with a rod or *saria*. As he had not deposed in accordance with his statement recorded during investigation, the learned APP cross-examined him. He denied the suggestion that the accused *Pramod* was also known as *Mullah*. He also denied the suggestion that he had filed a complaint against the accused *Pramod @ Mullah*. He stated that the person who had injured him was a Muslim, whereas the respondent was a Hindu. He categorically denied the suggestion that on 13.09.2009, the accused *Pramod @ Mullah*, whom he knew since before the incident, had



entered his *jhuggi* along with his three associates and committed the offences in question.

5. The complainant's wife, during her deposition recorded on 21.09.2012, stated that though she did not remember the date, month, or year, 5-6 persons had entered her house, including the respondent. She identified the respondent in Court and attributed to him the role of giving beatings to her husband, specifically hitting him on the back of his head with a knife. She further stated that her husband's tooth was broken with a *silbatta* (stone used for grinding). She named another assailant, *Pankaj*, and described his role in giving a fist blow to her. Insofar as the respondent is concerned, she stated that a sum of Rs.8,000/- along with her *kundal* (earrings) were also taken away by him. Upon a suggestion being given by the learned APP, she stated that the incident had taken place on 12.09.2009 at about 9:30 p.m.

6. It appears that an application under Section 311 Cr.P.C. was moved on behalf of the I.O. seeking recall of the complainant/PW-3, on the ground that it had come out in the testimony of PW-4 that *Chotu* had not given the correct version of the incident and had not identified the respondent in his initial examination as he had been threatened. Though the said application was allowed, it is observed that in her deposition *Radha* never stated that any threats were given to or received by *Chotu*. Further, no evidence with respect to such threats was brought on record.

7. *Chotu*, when re-examined on 15.07.2013, supported the case of the prosecution and identified the respondent, stating that the respondent barged into his *jhuggi* with 3-4 associates, started beating him and his wife, and



stole a sum of Rs.8,500/-. He further described the role of the respondent in hitting him with a *silbatta*. He stated that he had sustained injuries on his head but did not provide any other details about the weapon(s) of offence.

8. Interestingly, the independent witness Smt. *Kesar*, a resident of the adjacent *jhuggi* and examined as PW-2, did not support the prosecution's case. She stated that 3-4 persons had inflicted injuries on *Chotu*, but the respondent was not among them.

9. Learned APP for the State submits that the Trial Court failed to appreciate the testimony of PW-4, even though it found corroboration in the testimony of PW-3 upon his re-examination.

10. The submissions of the learned APP were refuted by the learned *Amicus Curiae* appointed to represent the respondent. Learned *Amicus* stated that the complainant (PW-3) is unreliable as he neither supported the prosecution case nor identified the respondent in his first Court deposition. It was argued that the Trial Court rightly disbelieved his testimony, as although he stated that he was injured by the respondent, no proof of the same was ever placed on record. He states that the testimony of *Radha* (PW-4) is also unreliable, as there are material contradictions in her testimony when compared with those of the other witnesses.

11. The Trial Court granted the benefit of doubt to the respondent, noting that the prosecution had failed to conclusively establish even the date on which the alleged offence was committed. Further, while PW-4 *Radha* stated that her *kundal* (earrings) and Rs.8,000/- were robbed, *Chotu*, at the time of re-examination, did not mention the *kundal* and stated only that a sum of Rs.8,500/- was robbed.



12. This Court, on a careful perusal of the record, notes that DD No. 35A was registered on receipt of information from BJRM Hospital regarding the admission of a person who had been injured in a quarrel. When the I.O. reached the hospital, he was informed that the MLC of the injured was incomplete as he was to be referred to LNJP Hospital, and that the MLC would be completed after his return from there. On the following day, when the I.O. went to LNJP Hospital, the injured was not found, and upon his return to BJRM Hospital, he learnt that the injured had not come back. Consequently, the MLC of the injured was stated to have remained incomplete.

13. As noted above, the complainant stated at the time of re-examination that he had been assaulted, but presented no proof of the same. The testimony of *Radha* (PW-4) also does not inspire confidence, not only because of the inherent contradictions when compared with the testimony of PW-3, but also due to being inconsistent with the testimony of PW-2. The benefit of doubt extended to the respondent is not liable to be interfered with, as an order of acquittal carries a double presumption of innocence.

14. It is well settled that an appellate Court must be slow to interfere in an appeal against acquittal unless the Trial Court's view is perverse. The law pertaining to double presumption of innocence operating in favour of an accused at the appellate stage, after his acquittal by the Trial Court, is settled. A gainful reference may be made to the Supreme Court's decision in Ravi Sharma v. State (NCT of Delhi), reported as (2022) 8 SCC 536, wherein it was observed as under:

"8. ...We would like to quote the relevant portion of a recent judgment of this Court in Jafarudheen v. State of Kerala



[Jafarudheen v. State of Kerala, (2022) 8 SCC 440] as follows: (SCC p. 454, para 25)

‘25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC, the appellate court has to consider whether the trial court's view can be termed as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.’”

15. The decision of the Supreme Court in Anwar Ali v. State of H.P., reported as **(2020) 10 SCC 166**, also categorically holds that the principles of double presumption of innocence and benefit of doubt should ordinarily operate in favour of accused persons in an appeal against acquittal. The relevant portions are produced hereinunder:

“14.1. In Babu [Babu v. State of Kerala, (2010) 9 SCC 189: (2010) 3 SCC (Cri) 1179], this Court had reiterated the principles to be followed in an appeal against acquittal under Section 378 CrPC. In paras 12 to 19, it is observed and held as under: (SCC pp. 196-99)

‘...’

13. In Sheo Swarup v. King Emperor [Sheo Swarup v. King Emperor, 1934 SCC OnLine PC 42: (1933-34) 61 IA 398: AIR 1934 PC 227 (2)], the Privy Council observed as under: (SCC Online PC: IA p. 404)

‘... 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.”

...
(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.”*

16. In view of the above discussion, this Court finds the contentions put forth not convincing enough to warrant reversal of the impugned judgment, and the same is accordingly upheld.

17. The present appeal is dismissed.

18. The personal bond furnished by the respondent stands cancelled and his surety is discharged.

19. A copy of this judgment be communicated to the Trial Court.

MANOJ KUMAR OHRI
(JUDGE)

OCTOBER 15, 2025

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