

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1133 of 2024

Arising Out of PS. Case No.-877 Year-2018 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

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Ranjit Sah @ Ranjeet Kumar S/o Dipak Sah R/o vill - Patahi, P.S. - Sadar,
Distt. - Muzaffarpur

... .. Appellant

Versus

1. The State of Bihar
2. Suraj Kumar S/o Late Gauri Shankar Sah R/o vill - Patahi Hari, P.s. - Sadar,
Distt. - Muzaffarpur

... .. Respondents

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Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Advocate
	:	Mr. Ritwaj Raman, Advocate
	:	Ms. Somali Acharya, Advocate
For the Respondent/s	:	Mr. Binod Bihari Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA)

Date : 02-04-2026

Heard Mr. Ajay Kumar Thakur, learned counsel for the
appellant assisted by Ms. Somali Acharya and Mr. Binod Bihari
Singh, learned Additional Public Prosecutor for the State.

2. Despite issuance of notice to respondent no.2 vide
order dated 14.05.2025, which was validly served, none has
appeared on his behalf.

3. The present appeal has been preferred under proviso
to Section 372 of the Code of Criminal Procedure, 1973
(hereinafter referred to as 'Cr.P.C.') for setting-aside the judgment
dated 29.06.2024 (hereinafter referred to as 'impugned judgment'),



passed by the Court of learned Additional Sessions Judge-1st, Muzaffarpur, (hereinafter referred to as ‘learned Trial Court’) in Sessions Trial No.589 of 2019 (arising out of Sadar P.S. Case No. 877 of 2018) whereby and whereunder the learned Trial Court has acquitted respondent no.2 of the charges levelled against him under Sections 341, 323, 325, 504, 307 and 302/34 of the Indian Penal Code (hereinafter referred to as ‘IPC’) and has been pleased to convict him under Section 304 Part II of the IPC.

4. The challenge to the impugned judgment is, however, confined to the acquittal of respondent no.2 of the charges under Section 302 and other provisions of the IPC.

5. The records of this appeal have been placed before this Court for consideration of the prayer of the appellant for setting aside the impugned judgment of acquittal.

Prosecution case

6. The prosecution case is based on the written report of the informant, namely Ranjeet Kumar dated 15.11.2018, in which he alleged that on the same day in the morning between 8:00 a.m. and 8:30 a.m., Suraj Kumar all of a sudden assaulted his father Deepak Sah by means of sword on the head with the intention to kill and soon thereafter with the aid of the persons of neighbourhood the injured was admitted in Maa Janki Hospital where his treatment was going on.



7. On the basis of the said written application, a formal First Information Report (hereinafter referred to as 'F.I.R.') was registered being Sadar P.S. Case No. 877 of 2018. The police after completion of investigation, filed charge-sheet bearing no.110 of 2019 dated 30.06.2019 against the respondent no.2 under Sections 341, 323, 325, 504, 307 and 302/34 of the IPC, whereafter cognizance was taken by the Jurisdictional Magistrate under the afore-mentioned provisions and the case was committed to the Court of Sessions. On receipt of records, the case was numbered as Sessions Trial No.589/2019 and the learned Trial Court framed charges against the respondent no.2 on 21.12.2019 under Sections 341, 323, 325, 504, 307 and 302/34 of the IPC, which were explained to him and to which he pleaded not guilty and claimed to be tried.

8. The prosecution, in order to substantiate its case during trial, has examined as many as eight witnesses and adduced documentary evidence too.

9. The statement of the respondent no.2 was recorded firstly on 27.07.2023 under Section 313 of the Cr.P.C., wherein he denied the allegations on the plea that he was not present at the place of occurrence at all. A more detailed statement was recorded on 11.12.2023, wherein also he denied the allegations giving explanations that he was going to his sister's house and he was



informed by Kanhai Paswan that his uncle Deep Narayan Sah (deceased) had suffered injuries on account of an accident. He has further stated that he was falsely implicated on account of some domestic disputes.

10. The defence has also examined five witnesses, however, has not adduced any documentary evidence.

11. The list of prosecution witnesses and documents exhibited on behalf of the prosecution and the list of defence witnesses are mentioned hereinbelow in a tabular form:

List of prosecution witnesses

Prosecution Witness No.	Name of witness	Description
PW-1	Randhir Kumar	Brother of the informant and eye-witness
PW-2	Kiran Devi	Wife of the deceased and eye-witness
PW-3	Sanju Devi	Wife of the informant
PW-4	Ranjeet Kumar	Informant
PW-5	Vikash Kumar	Hostile
PW-6	Sunita Kumari	1 st Investigating Officer
PW-7	Dr. Mukesh Prasad	Medical Officer
PW-8	Manohar Kumar	2 nd Investigating Officer

List of Exhibits on behalf of Prosecution

Exhibit No.	Description of the Exhibit	Proved by/Attested by
1	Written application of informant, Ranjeet Kumar	PW-4
2	Postmortem report of the deceased, Deep Narayan Sah	PW-7

List of Defence witnesses

Defence Witness	Name of witness	Description
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No.		
DW-1	Manoj Paswan	Neighbour of informant
DW-2	Kaushal Paswan	Co-villager
DW-3	Sangita Kumari	Sister of the respondent no.2
DW-4	Kanhai Paswan	Neighbour of informant
DW-5	Hema Devi	Cousin sister of the respondent no.2 and the informant

Findings of the learned Trial Court

12. The learned Trial Court after considering and analyzing the materials available on the record, including the evidence of witnesses, found that while PW-1 and PW-2 were eye-witnesses of the incident supporting the case of the prosecution that the respondent no.2 got a sword and attacked Deep Narayan Sah on his head with the iron handle/rod part of the sword due to which he started bleeding and fell down, PW-3 and PW-4 (informant) also supported the occurrence but on a conjoint reading of their examination-in-chief with their cross-examination, it appeared that these two witnesses arrived at the place of occurrence after the deceased was injured. The learned Trial Court has further noticed that PW-7, the Doctor who conducted the postmortem of the deceased and proved the postmortem report corroborated the prosecution case finding head injury upon the deceased caused by hard and blunt substance and the death being caused by hemorrhage and shock resulting from the said injury. It was thus concluded that the prosecution had



clearly established that the respondent no.2 had hit Deep Narayan Sah on his head with iron handle/rod part of a sword and injured him, causing his death.

13. The learned Trial Court then went on to discuss the issue as to whether the act of causing death was murder or culpable homicide not amounting to murder and after discussing some judicial pronouncements, analyzed the evidence in view of the judicial observations and found that it was apparent from the evidence on record that respondent no.2 consciously chose to hit Deep Narayan Sah, not with the lethal sharp part of the sword but with the iron handle/rod part of the sword indicating thereby that his act of assault was not done with the intention of causing death. It was further observed that it was a case of single blow but the force of the blow was such as to cause depressed fracture over right temporal bone and depressed fracture over left paramedial site of sagittal suture involving bone side of coronal suture.

14. In view of the above-mentioned considerations, the learned Trial Court concluded that the act of assault by the respondent no.2 was with the knowledge that he is likely by such act to cause death but without any intention to cause death or such bodily injury as is likely to cause death and as such, he was held to be guilty of culpable homicide not amounting to murder. It was thus held by the impugned judgment that the prosecution failed to



prove the guilt of the accused under Section 341, 323, 325, 504, 307 and 302/34 of the IPC and, accordingly, respondent no.2 was acquitted of the charges levelled against him under the aforesaid provisions. However, it was held that the prosecution had proved the guilt of the respondent no.2 under Section 304 Part II of the IPC beyond all reasonable doubt and was thus convicted thereunder and later sentenced to R.I. for a term of five years.

Submission on behalf of the appellant

15. Learned counsel for the appellant submits, at the outset, that out of the eight witnesses examined on behalf of the prosecution, PW-1 to PW-4 have completely supported the case of the prosecution as eye-witnesses and there is nothing to doubt their evidence. It has been submitted that the prosecution witnesses have consistently and cogently supported the allegation that the deceased was attacked and injured by the iron portion of the sword by Suraj Kumar, respondent no.2. He was rushed to the hospital in serious injured condition and referred to IGIMS where after a few days of treatment, he succumbed to his injuries on 18.11.2018. It has further been contended that a false and concocted story of road accident has been put forward by the defence, while no such accident ever took place and none of the witnesses made any such statement regarding accident before the



Investigating Officer during investigation and nor any hit and run case has been filed regarding the alleged accident.

16. Learned counsel for the appellant has submitted that the consistent evidence of the prosecution witnesses with regard to assault made by respondent no.2 upon the head of the deceased stands corroborated by the medical evidence as the doctor (PW-7), who conducted the postmortem examination, has found a depressed fracture on the head and on removal of scalp bone, extradural hemorrhage in frontal temporal parietal region and subdural hemorrhage in right temporal parietal area was found, besides some multiple abrasion over left foot and right and left knee. The Doctor has stated the cause of death to be hemorrhage and shock resulting from the injury that was caused by hard and blunt object. It has also been contended that the place of occurrence also stood proved as would be apparent from the evidence of the Investigating Officer (PW-6) and as such the prosecution, through its witnesses and the postmortem report of the deceased (Exhibit-2/PW-7) has been able to establish that it is a case of murder punishable under Section 302 of the IPC as the assault was made by a dangerous weapon on vital part of the body with the intention to kill. Accordingly, the acquittal of the respondent no.2 under Section 302 and other Sections of the IPC,



by the impugned judgment is based on erroneous consideration of facts and law.

Submissions on behalf of the State

17. Learned Additional Public Prosecutor for the State has, however, submitted that the judgment of the Trial Court is based on proper consideration of evidence available on the record, supported by clear, logical reasoning and based on legal principles. It has been submitted that the reasoning of the Trial Court given for acquittal of respondent no.2 from the charges under Section 302 and other Sections of the IPC and his conviction only under Section 304 Part II of the IPC, is based upon cogent and justifiable grounds and thus, the conclusion reached by the learned Trial Court warrants no interference.

Analysis and Consideration

18. Before going into the analysis of the evidence, it is clarified that this court is confining its views and findings to the extent of acquittal of the respondent no.2 of the offence under section 302 of IPC along with the other provision of IPC and thus, appreciation of evidence would be done only in the light of the same and would not have any bearing on any challenge by the respondent no. 2 to his conviction under Section 304 part II of IPC.



19. Having heard the learned counsel for the appellant and the learned APP for the State, as also on the perusal of the records, we find that the prosecution has examined eight witnesses, out of whom PW-4, Ranjeet Kumar is the informant of the case and he has stated that while his father Deep Narayan Sah was sitting at the door of his house, accused Suraj Kumar (respondent no.2) along with Umlesh Devi, Sudha Devi, Sushila Devi, Pankaj Sah and Lalan Sah came and indulged in hurling abuses and entered into a scuffle with him. He has further deposed that on the protest raised by his father, Suraj Kumar (respondent no.2) hit his father on his head with the iron handle of a sword causing bleeding head injury and when they tried to stop him, the accused fled away. His father was admitted in Maa Janki Hospital from where he was referred to IGIMS, where he died on 18.11.2018, after three days of the occurrence.

20. In his cross-examination, he has admitted that in his written report he had not taken the name of any other person but for Suraj (respondent no.2) alleging that he had hit his father with an iron sword. He has also admitted that the respondent no.2 is the son of his uncle and there was no earlier dispute between the families. This witness has further admitted that when he first saw his father he was lying in an injured condition and several people had already assembled when he reached the place of occurrence



and no one tried to apprehend respondent no.2, who was present at the place of occurrence. The witness has, however, denied the fact that his father had been hit by some person on a motorcycle who had fled away and the respondent no.2 was made an accused on account of land dispute. PW-4 has proved the written report and his signature thereupon which has been marked as Exhibit '1'.

21. PW-3, Sanju Devi, the wife of the informant (PW-4) has also given statements on similar lines. PW-1, Randhir Kumar, brother of the informant (PW-4) has given an eye-witness account of the occurrence by stating that respondent no.2 along with others was abusing his father and when he protested, respondent no.2 went to his house and after getting a sword hit his father on his head with the iron rod portion of the sword causing bleeding injury to him, who later succumbed to his injuries at the IGIMS Hospital on 18.11.2018. PW-2, Kiran Devi, the wife of the deceased, has also given an eye-witness account narrating the incident in the same manner as PW-1, Randhir Kumar.

22. Dr. Mukesh Prasad (PW-7), the Medical Officer, who conducted the postmortem examination on the body of the deceased found the following injuries:

“(i) Multiple abrasion of size ranging from $\frac{1}{2}$ cm x $\frac{1}{2}$ cm to 5 cm x 3 cm, brown-black colour, partially healed over left foot 1, 2, 3 toe, right knee extensor surface and; left knee extensor surface.



(ii) Partially healed surgically stitched wound over anterior part of left parietal bone medial aspect of 10 cm size, containing 8 stitches.

(iii) On removing scalp there was subgaleal hematoma over parieto-occipital region.

(iv) There was depressed fracture over right temporal bone of size 6 cm x 5 cm going upward medially and forward. Second depressed fracture over left paramedial site of sagittal suture involving both side of coronal suture of size 4 cm x 7 cm.

(v) On removing scalp bone there was extradural hemorrhage in left frontal temporal parietal region and subdural hemorrhage in right temporal parietal area.”

23. The Doctor has opined that the cause of death is hemorrhage and shock resulting from above noted injuries caused by hard and blunt object and has proved the postmortem report as Exhibit ‘2’. He has further stated in his cross-examination that head injuries are main cause for death but he could not tell as to which injury specifically is liable for death. In paragraph-15 of his evidence he has also stated that such type of injuries may be inflicted on the body of any person in an accident.

24. The first Investigating Officer (PW-6) had examined the place of occurrence which was said to be the road in front of the informant’s house and recorded the statement of the informant and others, while PW-8, the second Investigating Officer, after recording the statement of PW-1 and PW-2, submitted charge-sheet.



25. The witnesses produced on behalf of the defence disclosed a story that the deceased was actually hit by a motorcycle and he died on account of the injuries received in the said accident. They have further stated that the respondent no.2 has been falsely implicated in the present case due to previous land dispute.

26. Upon analysis of evidence and from the trend of examination and cross-examination of the prosecution witnesses it appears that while PW-1 and PW-2 have given an eye-witness account of the occurrence, PW-3 and PW-4 (informant) seem to have reached the place of occurrence only after the deceased was already assaulted and lying in an injured condition. It is also noticed that PW-1 to PW-4 are immediate members of the family of the deceased, while PW-5, Vikash Kumar, the only independent witness, has been declared hostile.

27. From a perusal of the F.I.R. and the evidence adduced during trial, it appears that there is a departure in the prosecution story from the initial story given by the informant in his written report to the evidence adduced during trial, inasmuch as, while the F.I.R. mentions the name of only one accused i.e., Suraj Kumar (respondent no.2) attributing him the allegation of assaulting by sword on the head of the deceased, substantial improvements have been made during trial by adding name of



other accused persons and introducing the fact that the iron handle/rod portion of the sword was used by respondent no.2 while assaulting the deceased. The introduction of this new story during trial may well lead to an inference that the same has been done so that the oral allegations of assault are in consonance with the injuries as disclosed in the postmortem report (Exhibit-2) wherein the injury is said to have been caused by hard and blunt substance and there is no incised injury on the head.

28. Although the prosecution witnesses during trial have put forth a case of assault by respondent no.2 by means of iron handle of the sword, the other injuries in the form of multiple abrasion found on the foot and knee have not been substantially explained by the prosecution, which again may lead to an inference of a different manner of occurrence. It has also been noticed that the Doctor (PW-7) in his cross-examination has stated that such injuries may be inflicted in an accident and the witnesses of the defence have also deposed that the death of the deceased took place as a result of an accident suffered by the deceased by a motorcycle. However, these defence witnesses have not been able to give any details of the motorcycle or the person riding the same. The defence witnesses have also stated that the respondent no.2 has been falsely implicated on account of land dispute between the parties but both the said facts relating to accident and



land dispute stand contested by the witnesses of the prosecution. The second I.O. (PW-8) has also stated that he conducted no investigation regarding the death of the deceased caused by accident.

29. Taking into consideration the fact that the appellant herein, the informant of the present case, has challenged the impugned judgment to the extent of acquittal of the respondent no.2 from charges under Section 302 of the IPC along with some other Sections 341, 323, 325, 504, 307/34 of the IPC, the crucial issue to be determined is as to whether the prosecution has been able to establish and prove its case that the death of the deceased was caused by an act of assault inflicted by respondent no.2 with an intention to kill the deceased, so as to justify a conviction under Section 302 IPC, thereby rendering the finding of acquittal therefrom, vide the impugned judgment as erroneous or hold the impugned judgment to be tenable considering lack of intention to cause death, to be inferred from the allegations and attending circumstances.

30. The position of law is settled by way of various judicial pronouncements wherein distinctions have been drawn between “murder” and “culpable homicide not amounting to murder” and the existence of ‘*mens rea*’, i.e., an ‘intention’ to kill has been held to be a necessary concomitant to bring a case within



an ambit of “murder”. In the case of state of **State of A.P. vs. Rayavarapu Punnayya**, reported in **(1976) 4 SCC 382**, the scheme of the Indian Penal Code making such distinction has been discussed in the following words:

“12. In the scheme of the Penal Code, “culpable homicide” is genus and “murder” its specie. All “murder” is “culpable homicide” but not vice-versa. Speaking generally, “culpable homicide” sans “special characteristics of murder”, is “culpable homicide not amounting to murder”. For the purpose of fixing punishment, proportionate to the gravity of this generic offence, the Code practically recognises three degrees of culpable homicide. The first is, what may be called, “culpable homicide of the first degree”. This is the greatest form of culpable homicide, which is defined in Section 300 as “murder”. The second may be termed as “culpable homicide of the second degree”. This is punishable under the first part of Section 304. Then, there is “culpable homicide of the third degree”. This is the lowest type of culpable homicide and the punishment provided for it is, also, the lowest among the punishments provided for the three grades. Culpable homicide of this degree is punishable under the second part of Section 304.”

31. In the case of **Deepak Vs. State of Uttar Pradesh**, reported in **(2018) 8 SCC 228** rendered by a 3 Judges Bench of H’onble Supreme Court of India considering a case of single blow of a sword, has held in paragraph nos. 7 and 8 as under:

“7. On consideration of the entirety of the evidence, it can safely be concluded that the occurrence took place in



the heat of the moment and the assault was made without premeditation on the spur of the moment. The fact that the appellant may have rushed to his house across the road and returned with a sword, is not sufficient to infer an intention to kill, both because of the genesis of the occurrence and the single assault by the appellant, coupled with the duration of the entire episode for 1½ to 2 minutes. Had there been any intention to do away with the life of the deceased, nothing prevented the appellant from making a second assault to ensure his death, rather than to have run away. The intention appears more to have been to teach a lesson by the venting of ire by an irked neighbour, due to loud playing of the tape recorder. But in the nature of weapon used, the assault made in the rib-cage area, knowledge that death was likely to ensue will have to be attributed to the appellant.

8. In the entirety of the evidence, the facts and circumstances of the case, we are unable to sustain the conviction of the appellant under Section 302 IPC and are satisfied that it deserves to be altered to Section 304 Part II IPC. It is ordered accordingly. Considering the period of custody undergone after his conviction, we alter the sentence to the period of custody already undergone. The appellant may be released forthwith if not required in any other case.”

32. Thus, in order to come to a conclusion whether an act of assault amounts to “murder” or “culpable homicide not amounting to murder”, the determinative factor is the presence or absence of intention of the offender. In case, the intention of causing death or causing such bodily injury does not come out loud and clear in the facts and circumstances of a particular case, it would be difficult to categorize such act as one of murder to be made punishable under section 302 of IPC. However, there can be



no thumb rule with regard to the infliction of a single blow not being covered within the purview of “murder” and the judicial pronouncements are in the form of broad guidelines to reach a particular conclusion. However, the said conclusion with regard to presence or absence of intention has to be inferred and deciphered from the attending facts and circumstances of each case which would include whether there was any planning or premeditation, what weapon was used, how it was used with what force it was used and what is the nature of injuries caused so on and so forth.

33. Upon a careful and close scrutiny of the evidence on record, it appears that the prosecution witnesses giving eye-witness account and hearsay evidence during trial, have deposed that the respondent no.2 along with others had initially indulged into hurling of abuses and scuffle, whereafter the respondent no.2 gave a blow with the iron handle/rod portion of a sword upon the head of the deceased. There is no allegation of repetition of blow or any indiscriminate assault upon the deceased. It has also been admitted by the witnesses that the respondent no.2 happens to be the nephew of the deceased.

34. Even assuming the evidence of the prosecution witnesses to be true, the allegation attributed to respondent no.2 is confined to using the blunt portion of the sword and the medical evidence adduced in the form of the postmortem report and the



deposition of the doctor (PW-7) is also to the effect that the injuries were caused by hard and blunt substance. This is indicative of the fact that had there been any intention to kill, there was nothing to deter the respondent no.2 from using the sharp portion of the sword which may have ensured even the immediate death of the deceased. The deliberate and conscious act of the respondent no.2 using the blunt/non-lethal part of a sharp edged weapon is a clear indicator of the lack of intention to kill the deceased.

35. The background of the incident as narrated by the prosecution witnesses in the form of some hurling of abuses etc., also goes to show an absence of any planning of premeditation by the accused. Further, the testimony of the prosecution witnesses also reveal that the present case involves an incident of a single blow by the blunt portion of the sword and this fact may only at best attribute a knowledge possessed by the accused (respondent no.2) that his act is likely to cause death, but no intention to cause death or such bodily injury as is likely to cause death, can be imputed to his action.

36. All these facts have been taken into consideration by the learned Trial Court in the impugned judgment for acquittal of the charges and law is well settled in cases of appeal against acquittal, that unless and until the finding of the learned Trial



Court is found to be palpably perverse or illegal, the Appellate Court would not interfere with the same for the purposes of reversing the finding of acquittal. This proposition has been clearly laid down by the Hon'ble Apex Court in the case of **Nikhil Chandra Mondal vs. State of W.B.**, reported in **(2023) 6 SCC 605** and also in a case of **Vijay Singh @ Vijay Kr. Sharma vs. State of Bihar**, reported in **2024 SCC OnLine SC 2623**.

37. Further, in the case of **Rajesh Prasad vs. State of Bihar**, reported in **(2022) 3 SCC 471**, which also took note of the case of **Chandrappa v. State of Karnataka**, reported in **(2007) 4 SCC 415**, the Hon'ble Apex Court specifically held that an appellate court must bear in mind that in cases of acquittal, there is double presumption in favour of the accused, one being the presumption of innocence available to him under the principles of criminal jurisprudence and the second being, acquittal of the accused, thereby reinforcing the presumption of his innocence. Paragraph-29 of **Rajesh Prasad (supra)** is being quoted hereunder:

“29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words : (Chandrappa case [(2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325] , SCC p. 432, para 42)



“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, reappraise and reconsider the evidence upon which the order of acquittal is founded.

(2) The Criminal Procedure Code, 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.”

38. Upon consideration of all the above-mentioned facts and circumstances and after having examined and analysed the evidence led by the prosecution, the view of the Trial Court acquitting the accused (respondent no.2) from the charges under Section 302 along with Sections 341, 323, 325, 504 and 307/34 of the IPC cannot be held to be unsustainable and if two reasonable conclusions are possible on the basis of evidence on record, in view of the settled law, this Court does not find any reasonable ground to disturb the finding of acquittal recorded by the learned Trial Court.

39. Therefore, considering that the impugned judgment, so far as it relates to acquittal under Section 302 and other provisions of IPC is concerned, is based on sound reasons.

40. We, hasten to add that our observations in the present case are confined to the prayer of the appellant seeking setting aside of the impugned judgment so far as it relates to acquittal of the respondent no.2 of the charges under Section 302 along with Sections 341, 323, 325, 504, 307/34 of the IPC.

41. It is, thus, made clear that in case the respondent no.2 has preferred any appeal against his conviction and sentence



under Section 304 Part II of the IPC as recorded by the present
impugned judgment rendered by the learned Trial Court, our
observations would not prejudice either of the parties in any
manner and the same would be decided on its own merits.

42. Accordingly, the present appeal stands dismissed.

(Rajeev Ranjan Prasad, J)

(Soni Shrivastava, J)

anand/-

AFR/NAFR	AFR
CAV DATE	NA
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