IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST ACQUITTAL) NO. 2229 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

==========

Approved for Reporting	Yes	No

==========

STATE OF GUJARAT
Versus
PRAKASHKUMAR MANILAL MEWADA (SUTHAR)

==========

Appearance:
MR ROHAN RAVAL, APP for the Appellant(s) No. 1

==========

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

Date : 01/10/2026

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

1. Here is the Appeal by the State under Section 419 of the Bharatiya Nagrik Suraksha Sanhita, 2023 (corresponding section 378 of Cr.P.C.) against the judgment and order of acquittal.

2. Being dissatisfied by the judgment and order passed by the learned 4th Additional Sessions Judge, Palanpur, passed in Sessions (Special Atro) Case No.23 of 2021, dated 28.01.2025, acquitting the accused from the offences punishable under Sections 306, 406, 420, read with Section 114 of the IPC and Sections 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the State has preferred instant

appeal.

3. We have heard Mr.Rohan Raval, learned APP for appellant - State.

4. Brief facts giving rise to file the present Appeal are that, on 16.02.2019, deceased Rakesh Ramabhai committed suicide by setting himself on fire, using kerosene oil. He was taken to Palanpur Civil Hospital and then, Ahmedabad Civil Hospital where he succumbed to his injuries on 22.02.2019. During the treatment period, the deceased made oral dying declaration before his father and others as well as treating doctor. The FIR came to be lodged by the father of the deceased. The Executive Magistrate had recorded the statement of the deceased in the form of dying declaration and the police recorded his statement. The prosecution case is mainly on multiple dying declaration of the deceased. It is relevant to note that on 03.11.2018, an offence of theft with respect to vehicle tractor came to be registered with Deesa Police Station. According to complainant, some unknown persons have stolen his tractor, allegedly parked near his house. On 05.11.2018, at the instance of one Mr.Sikandar Khan, one tractor being purchased by deceased Rakesh and agreement to this effect came to be signed and notarized by the parties (Exh.42). On 06.11.2018, the said tractor came to be sold to one Sohan Babubhai resident of Rajasthan by the deceased Rakesh and terms and conditions of the sale set out in the agreement and the same was notarized (Exh.45). It is the case of the prosecution that the name of the deceased Rakesh was surfaced in the theft of the tractor because the stolen tractor was purchased by the deceased at the instance of Sikandar Khan and due to his involvement, the deceased was in great distress. In these background facts, the deceased had disclosed in his multiple dying

declaration that the accused herein and others lured him with the promise that he will get monetary advantage and also assured that they will bear the repairing of his bike and on that promise, his signature was taken on sale agreement of tractor and on account of his involvement in the theft of tractor, the accused repeatedly harassed that the police would arrest him and he has to appear before the police and therefore, due to constant harassment of the accused, he committed a suicide by setting on fire using kerosene oil.

5. In such circumstances, the respondent accused, by way of supplementary chargesheet, tried and prosecuted for the offences as referred above. The Trial Court, after framing of the charge, has relied on the oral as well as documentary evidence adduced in the main Special Atro Case. The prosecution, in order to prove the charge, examined as many as 14 witnesses and relied upon 31 documents. The accused has not adduced any evidence in his defence. The defence of the accused in the Trial Court is in total denial and false implication.

6. The learned Sessions Judge, after appreciating and examining the oral as well as documentary evidence, acquitted the accused herein for the offences with which he was charged, on the grounds that the contents of the dying declaration do not prove that the accused has contributed to the suicide committed by the deceased by direct or indirect act and as such, the prosecution miserably failed to prove that there is no positive evidence with respect to act of instigation or intentionally aiding the deceased to commit suicide and therefore, in absence of any *mens rea* on the part of the accused, the charge of suicide as well as forgery and cheating cannot be sustained. The Trial Court further observed that there

is no active act on the part of the accused that the deceased had no other option, but to commit suicide. The Trial Court further observed that the prosecution failed to prove that the deceased was arraigned in the theft case. The Trial Court, while acquitting the accused, under the provisions of the Atrocity Act, observed that the prosecution failed to prove that the offence was committed on the ground that victim belongs to SC/ST community.

7. In such circumstances, the Trial Court while acquitting the accused, held and observed that the prosecution has miserably failed to prove the charge against the accused by leading cogent and convincing evidence.

8. Mr.Rohan Raval, learned APP appearing for and on behalf of 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 the Trial Court failed to appreciate the fact that the deceased in his multiple dying declaration disclosed the active role played by the accused in the alleged offence. The deceased was lured on the promise that the financial benefits will be extended to him and his bike would get repaired, as a result, the signature was taken on the stamp paper for purchasing and selling of the tractor and thereafter, the accused mentally harassed the deceased, informing him that his name is surfaced in the theft case and he has to appear before the police. In such circumstances, considering the act of instigation allegedly done by the accused and others, the deceased with no other alternative, but put to end his life.

9. In such circumstances, the view taken by the trial Court is unreasonable and findings are perverse, which has resulted into miscarriage of justice and therefore, it has been submitted that this is a fit case to admit the appeal.

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

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

12. 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.

13. In the facts of the present case, on 16.02.2019, deceased Rakesh committed suicide and he died during the treatment on 22.02.2019. The alleged transaction of sale of tractor being entered into by deceased and Sikandar Khan on 05.11.2018 and thereafter, on 06.11.2018 with the person from Rajasthan. The documents with regard to the tractor which

had no RTO passing, having been produced by the prosecution at Exhs.42 to 46 and the persons, who had notarized the agreements were also examined to prove that the deceased remained present before them and signed the documents with respect to vehicle tractor. The prosecution, in order to prove the dying declaration, mainly relied on the evidence of PW:1 complainant Ramabhai Hirabhai, PW:5 Dr.Dhiraj Jain, Executive Magistrate PW:6 Raman Solanki, Police Constable PW:7 Meghraj Ramji, dying declaration Exh.41 and medical case papers at Exh.42.

14. We have carefully examined the multiple dying declaration of the deceased and having regard to the contents of the same, it is proved and established that on 16.02.2019, the deceased had committed suicide by setting himself on fire. The factum of dying declaration reveals that deceased was under distress due to his name surfaced in the theft of tractor vehicle. Admittedly, the photographs and Aadhar Cards were being attached with the sale agreement of vehicle tractor and at the time of execution of the deeds, he remained present before the notary advocates. The said execution allegedly done on 05.11.2018 and 06.11.2018. The incident of suicide occurred on 16.02.2019. According to the case of the prosecution, the deceased was called upon by the police for investigation and after two days, he was set free. The prosecution did not have produced the chargesheet case papers of the theft case to prove that the deceased was arraigned as accused in the theft case. In such circumstances, if the allegations as it is being accepted, then also the ingredients of abetment as defined under Section 107 of the IPC, to commit suicide having not been attracted at all.

15. In order to prove the charge of abetment of suicide, the prosecution has to prove – the deceased committed a suicide; the accused instigated or abetted for committing suicide; and direct involvement by the accused in such abetment or instigation is necessary. In **Ramesh Kumar Vs. State of Chhattisgarh (2001 (9) SCC 618),** the Supreme Court held that where the accused by his acts, or by continued course of conduct creates such circumstances that the deceased was left with no other option, but to commit suicide, and "instigation" may be inferred. In other words, in order to prove that accused abetted commission of suicide, it has to be established that the accused had the intention to provoke, urge or encourage the deceased to commit suicide. In **Madan Mohan Singh Vs. State of Gujarat (2010(8) SCC 628)**, the Supreme Court held that the intention of the accused to aid or to instigate or to abet the deceased to commit suicide is must for attracting Section 306 and it also requires an active act or direct act which led the deceased to commit suicide saying no option.

16. Applying to the above principle to the facts of the present case, the evidence in the form of dying declaration does not prove and establish that the accused herein in any manner lured the deceased with a promise of extending financial benefits including the assurance of bike repairing took his signature on stamp paper and after the registration of the offence of theft, the deceased was mentally harassed on the assertion that he has to appear and surrender before the police. Therefore, the facts of sale of tractors as well as the registration of the offence with Deesa Police Station, including the statement of the deceased do not fall under the definition of abetment and as such, *mens rea* on the part of the accused is also not established.

17. Thus, having regard to the time gap between the registration of the FIR of theft and date of commission of the suicide, there is no proximate nexus between the accused's conduct and the suicide.

18. For the reasons recorded, we are of the considered opinion that the evidence adduced by the prosecution is not sufficient to prove the charge of abetment of suicide as well as an act of forgery and cheating against the accused, beyond reasonable doubt. So far as charge under the provisions of atrocity are concerned, the prosecution failed to prove that the offence is committed on the ground that the deceased is a member of SC/ST Tribe.

19. In the result, we do not find any perversity in the impugned judgment and in absence of substantial and compelling reason, no ground exists to interfere with the findings of acquittal recorded by the Trial Court and therefore, in our view, the Trial Court was justified in acquitting the accused.

20. With the observations as aforesaid, no case is made out to grant leave to appeal. Accordingly the appeal stands **dismissed** at the admission stage.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

Rakesh

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: RAKESH MAHESHKUMAR KOSHTI(HC00950), Principal Pvt. Secretary, at High Court of Gujarat on 06/10/2026 11:02:11