IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL NO. 2014 of 2012

FOR APPROVAL AND SIGNATURE:

HONOURABLE MS. JUSTICE S.V. PINTO Sd/-

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Approved for Reporting	Yes	No
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STATE OF GUJARAT
Versus
ABHESINH RANJITSINH VAGHELA & ORS.

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Appearance:
MS CM SHAH, APP for the Appellant(s) No. 1
MR RUDRANSH NAYAK, ADVOCATE for MR ANKIT Y BACHANI(5424) for the Opponent(s)/Respondent(s) No. 1,2,3
NOTICE SERVED for the Opponent(s)/Respondent(s) No. 4

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CORAM:**HONOURABLE MS. JUSTICE S.V. PINTO**

Date : 03/11/2026

ORAL JUDGMENT

1. This appeal has been filed by the appellant – State under Section 378(1)(3) of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code') against the judgment and the order dated 20.09.2012 in Special (Atrocity) Case No.10 of 2011 passed by the learned Special Judge and 3rd Additional Sessions, District Banaskantha at Palanpur (hereinafter referred to as 'the learned Trial Court'), whereby, the learned Trial Court

has acquitted the respondents – accused from the offences punishable under Sections 332, 504, 506(2), 186 and 114 of the Indian Penal Code (hereinafter referred to as 'the IPC') and under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Atrocity Act'). The respondents are hereinafter referred to as 'the accused' as they stood in the rank and file in the original case, for the sake of convenience, clarity and brevity.

2. The relevant facts leading to filing of the present appeal are as under:

2.1. The complainant, Bhimjibhai Martabhai Ninama, was serving as the Principal of Godhani Primary School for the preceding six years. On 16.09.2010, at approximately 2:00 p.m., while the complainant was making arrangements for the children to sit for their midday meal, the accused No. 1 who was the Manager of the Mid-Day Meal Scheme, questioned him as to why he was not allowing the children to sit for lunch. The complainant replied that the children who wished to have their

lunch could sit and partake of the meal. Upon hearing this, the said Manager got enraged and started abusing the complainant. He also made derogatory remarks by referring to the complainant as belonging to the Adivasi/Bhil caste and questioned whether he was competent to mark the attendance of the children. The complainant replied that the attendance of the children who sat for lunch would be marked accordingly. Thereafter, accused No. 1 went to his house, brought a bottle of medicine and threatened the complainant by stating that he would consume the said medicine and that the complainant could thereafter take care of his children. At that time, accused Nos. 2 and 3, who were the wife and sister-in-law of accused No. 1, respectively, also came to the school. They questioned the complainant as to why the accused no.1 should consume the medicine and stated that the complainant himself should consume it. They also attempted to assault the complainant. At that juncture, the other teachers, namely, Rameshbhai

Chaganbhai Kharadi, Maheshbhai Indubhai Suthar, Dineshbhai Maganbhai Prajapati, Sonalba, Himmatsinh Vaghela, and other persons intervened and rescued the complainant from further assault. Thereafter, the accused persons issued threats to the complainant and left the place. Subsequently, the complainant, along with Dalpatdan Kakkaldanji Gadhvi of Paniyari village, went to Danta Police Station and lodged a complaint in respect of the aforesaid incident. On the basis of the said complaint, an offence punishable under Sections 332, 504, 506(2), 186 and 114 of the IPC and Section 3(1)(10) of the Atrocity Act was registered at Danta Police Station vide II-C.R. No. 3088 of 2010.

2.2. After registration of the FIR, the investigation was carried out by the concerned Investigating Officer and after having sufficient material against the accused, the chargesheet came to be filed before the Court of Judicial Magistrate First Class, Danta, which registered as Criminal Case No.1995 of 2010. As the case was exclusively triable by the Court of Sessions therefore, after completion of process under Section

209 of the Cr.P.C., the case was committed to the Sessions Court and the same was registered as Special (Atrocity) Case No.10 of 2011.

2.3. The accused was duly served with the summons and the accused appeared before the learned Trial Court and it was verified whether the copies of all the police papers were provided to the accused as per the provisions of Section 207 of the Code and a charge was framed by the learned Trial Court at Exh.7 and the statements of the accused were recorded at Exhs. 8 to 10 respectively, wherein, the accused denied all the contents of the charge and the entire evidence of the prosecution was taken on record. The prosecution has examined 6 witnesses and has produced 7 documentary evidences in support of the case.

2.4. After the closing pursis was submitted by the learned APP at Exh.26, the further statement of the accused under Section 313 of the Code was recorded. After hearing the arguments of the learned APP and learned advocate for the accused and after perusing the documents on record, the learned Trial Court, by the impugned judgment and order,

acquitted the accused accused for the offences punishable under Sections 332, 504, 506(2), 186 and 114 of the IPC and under Section 3(1)(x) of the Atrocity Act.

3. Being aggrieved and dissatisfied with the impugned judgment and order passed by the learned Trial Court, the appellant – State has filed the present appeal mainly stating that the impugned judgment and order passed by the learned Trial Court is contrary to law, evidence on record and principles of justice. The learned Trial Court has not considered the direct or indirect evidence produced in this case connecting the accused with the crime and has also not appreciated the oral as well as documentary evidence on record and has straightway arrived at the conclusion that the prosecution has failed to prove the case beyond reasonable doubts. That the reasons given by the learned Trial Court appreciating the evidence and while acquitting the accused, are not proper and are perverse and bad in law, and hence, the impugned judgment and order deserves to be quashed and set aside.

4. Heard learned APP Ms.C.M.Shah for the appellant – State and learned advocate Mr. Rudransh N. Nayak appearing for

learned advocate Mr.Ankit Y. Bachani for the respondent Nos.1 to 3 – original accused. Though served, the respondent no.4 – original complainant has not appeared either in person or through an advocate. Perused the impugned judgment and order of acquittal and have re-appreciated the entire evidence of the prosecution on record of the case.

5. Learned APP Ms.C.M.Shah for the appellant – State has taken this Court through the entire evidence produced by the prosecution and has vehemently argued that the learned Trial Court has not appreciated the evidence properly and the prosecution has produced cogent evidence to prove the case and has successfully proved the case against the accused but the learned Trial Court has not considered the same and has acquitted the accused. The judgment and order of acquittal passed by the learned Judge is contrary to law, evidence on record and principles of justice. The judgment and order of acquittal passed by learned Judge is based on inferences, not warranted by facts of the case and also on presumption, not permitted by law. Learned APP has urged this Court to quash and set aside the impugned judgment and order of acquittal and

to find the accused guilty for the said offence. Learned APP has urged this Court to allow the present appeal and impose maximum sentence on the accused.

6. Learned advocate Mr. Rudhansh N. Nayak appearing for learned advocate Mr.Ankit Bachani for the respondent Nos. 1 to 3 – original accused Nos. 1 to 3 has submitted that the learned Trial Court has appreciated all the evidence in true perspective and has not committed any error in acquitting the accused. Therefore, no interference of this Court is required in the impugned judgement and the order of acquittal passed by the learned Trial Court and has urged this Court to reject the appeal.

7. At the outset, before discussing the facts of the present case, it would be appropriate to refer to the observations of the Apex Court with regard to the powers of the Appellate Court while dealing with acquittal appeal in the case of **Surendra Singh and Ors. Vs. State of Uttarakhand,** in Para No. 11:

> **"11.** Recently, in the case of Babu Sahebagouda Rudragoudar and others v. State of Karnataka6, a Bench of this Court to which

one of us was a Member (B.R. Gavai, J.) had an occasion to consider the legal position with regard to the scope of interference in an appeal against acquittal. It was observed thus:

> **"38.** First of all, we would like to reiterate the principles laid down by this Court governing the scope of interference by the High Court in an appeal filed by the State for challenging acquittal of the accused recorded by the trial court.
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> **39.** This Court in Rajesh Prasad v. State of Bihar [Rajesh Prasad v. State of Bihar, (2022) 3 SCC 471 : (2022) 2 SCC (Cri) 31] encapsulated the legal position covering the field after considering various earlier judgments and held as below : (SCC pp. 482-83, para 29)
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> **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 [Chandrappa v. State of Karnataka, (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325] , SCC p. 432, para 42)
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> **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:
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> (1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.
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> (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.
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> (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.''

40. Further, in H.D. Sundara v. State of Karnataka [H.D. Sundara v. State of Karnataka, (2023) 9 SCC 581: (2023) 3 SCC (Cri) 748] this Court summarised the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378CrPC as follows : (SCC p. 584, para 8)

''8. … XXX XXX XXX

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

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to reappreciate 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."

41. 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:

41.1. That the judgment of acquittal suffers from patent perversity;

41.2. That the same is based on a misreading/omission to consider material evidence on record; and

41.3. 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."

8. It is a settled principle of law that in an appeal against acquittal, the Appellate Court is circumscribed by limitation that no interference has to be made in the order of acquittal unless after appreciation of the evidence produced before the learned Trial Court, it appears that there are some manifest illegality or perversity which could not have been possibly arrived at by the Court. It is also a settled principle that there is no embargo on the Appellate Court to review the evidence but, generally the order of acquittal shall not be interfered with as the presumption of innocence of the accused is further strengthened by the order of acquittal. The golden thread which runs through the web of administration of justice in criminal cases is that if two views are possible on the evidence

adduced in the case of the prosecution i.e. (i) guilt of the accused and (ii) his innocence, the view, which is in favour of the accused, should be adopted, and if the trial Court has taken the view in favour of the accused, the Appellate Court should not disturb the findings of the acquittal. The Appellate Court can interfere with the judgment and order of acquittal only when there are compelling and substantial reasons and the order is clearly unreasonable and where the Appellate Court comes to conclusion that based on the evidence, the conviction is a must.

9. In light of the above, the evidence produced by the prosecution on record is appreciated and PW-1, Bhimjibhai Martabhai, examined at Exh.14, is the complainant. The witness has narrated the facts and circumstances of the incident as stated by him in his complaint, which has been produced on record at Exh.15. The complainant has fully supported the prosecution case and has also produced his caste certificate at Exh.16.

During his cross-examination by the learned advocate for the accused, the witness stated that the work relating to the Mid-Day Meal Scheme was entrusted to one

teacher, namely, Vishnudan Barot, whose duty was to supervise whether the children were sitting and having their meals. He further stated that there were six rooms in the school and one separate room was being used for storing the ingredients required for preparing the midday meal, and the cooking activities were also carried out in the said room. Accused No. 1 was the Manager of the Mid-Day Meal Scheme and was in charge of the said room. He was also responsible for maintaining the accounts of the Mid-Day Meal Scheme and supervising the children. The witness further admitted that, as per the rules, only one teacher was permitted to have a meal under the scheme. He also stated that his wife was serving as a primary teacher at Navavas village Primary School and that his children sometimes availed themselves of the midday meal at Godhani School. However, he denied the suggestion that he had demanded that accused No. 1 prepare a separate meal for him. The witness further admitted that there was a police outpost at Navavas and that he had initially gone to Navavas and thereafter proceeded to Danta Police Station for lodging the complaint.

9.1. PW-2, Sonalba Himmatsinh, examined at Exh.17, is

projected by the prosecution as an eyewitness to the incident. The witness stated that, on the day of the incident, a quarrel had taken place between accused No. 1 and the complainant. At that time, she was standing in the lobby at some distance from them. As there was considerable commotion, she could not hear the conversation that had taken place between the complainant and accused No. 1. She further stated that, at the relevant time, she had been serving in the school for only about one and a half months and, therefore, she could not say who had gathered at the spot during the incident. However, she identified accused No. 1 before the Court. The witness further stated that she subsequently came to know that the wife and sister-in-law of accused No. 1 had also come to the school, though she could not identify them. She had also subsequently learnt that the quarrel between the complainant and accused No. 1 had taken place in connection with the distribution of pens to the children and the functioning of the Mid-Day Meal Scheme. She further came to know that accused No. 1 had stated that he would consume some medicine. The witness admitted that the complainant belonged to the Adivasi community; however, she expressed her

ignorance as to whether accused No. 1 had made any remarks concerning the caste of the complainant.

During her cross-examination by the learned advocate for the accused, she stated that the complainant and one Rameshbhai Kharadi used to commute from Navavas together, though she could not say whether they travelled on the same motorcycle.

9.2. PW-3, Rameshbhai Chaganbhai Kharadi, examined at Exh.18, is also projected by the prosecution as an eyewitness to the incident. The witness stated that the incident had occurred on 16.09.2010 at approximately 2:00 p.m. At the relevant time, he was present in his classroom. As Vishnubhai was on leave, the Principal was making arrangements for the children to sit for their midday meal. At that time, accused No. 1 arrived with some pens and distributed them among the children who were sitting for lunch. The complainant told accused No. 1 that, instead of distributing pens, he should ensure that proper meals were prepared so that more children would come forward to avail themselves of the midday meal. Upon hearing this, accused No. 1 became angry and started abusing the Principal. The witness

further stated that he could not hear the exact words uttered by accused No. 1. Thereafter, the accused No.1 went to his house, from where he returned with a bottle of medicine. The witness stated that accused No. 1 was threatening to consume the medicine and was telling the complainant to take care of his wife and children thereafter. The witness snatched the bottle of medicine from accused No. 1, and the bottle fell down. Thereafter, accused No. 2 rushed towards the complainant and questioned him as to why her husband should consume the medicine, stating that the complainant himself should consume it. At that time, there was a table in the lobby, around which the complainant started running round the table, while accused No. 2 also took the bottle of medicine and chased him. The witness further stated that the complainant took out his mobile phone from his pocket and started communicating with the police station. The witness also deposed that, during the incident, accused No. 1 had made derogatory remarks against the complainant by referring to him as belonging to a lower caste and an Adivasi.

During his cross-examination by the learned

advocate for the accused, the witness stated that, at the time of the incident, he was present in Room No. 1. The children had already sat down for their meals, and two women were serving food to them. Approximately 50 children were sitting for lunch. He further stated that the Mid-Day Meal Scheme was meant exclusively for the children and that only one teacher was permitted to have a meal under the scheme for the purpose of verifying the quality of the food. He also stated that Vishnubhai was regularly supervising and checking the food supplied under the scheme. The witness further stated that the complainant used to commute with him from Navavas village to Godhani. However, at the time of the incident, he was inside the classroom and subsequently came to know that a quarrel had taken place between the complainant and accused No. 1. He also admitted that he knew Dalpat Gadhvi, a resident of village Paniyari, who used to visit the complainant, and that he had good relations with the complainant.

9.3. PW-4, Dineshbhai Maganbhai Prajapati, examined at Exh.19, is also projected by the prosecution as an eyewitness to the incident. The witness stated that the incident had occurred

on 16.09.2010 between 1:50 p.m. and 2:30 p.m., during the recess period. At the relevant time, he was sitting in the lobby as it was recess time. The Principal was making arrangements for the children to sit for their midday meal, as the concerned teacher was on leave. At that time, one child was distributing pens. The witness noticed that the accused and the complainant were engaged in a conversation and were speaking loudly. On hearing the commotion, he went towards them. The complainant told the accused that, instead of enticing the children by distributing pens, he should ensure that proper food was prepared so that the children would voluntarily come forward and sit for their meals. The witness further stated that he separated them, whereupon accused No. 1 suddenly went to his house and returned with a bottle of medicine, accompanied by his wife. Accused No. 1 told the complainant that he would consume the medicine and that the complainant could thereafter take care of his wife and children. Accused No. 1 was also abusing the Principal. Thereafter, Rameshbhai Kharadi intervened and separated them. Subsequently, accused No. 2 took the bottle of medicine in her hands, stated that she would

consume the medicine and rushed towards the complainant. At that time, the complainant and accused No. 2 started running around a table. The complainant attempted to contact the police station over the telephone and the accused no.1 calmed down. Subsequently, the school activities resumed, and the Principal left for his meeting.

During his cross-examination by the learned advocate for the accused, the witness stated that several persons from the village had also gathered at the school at the time of the incident. He further stated that Alkhiben and Galkhiben were serving food to the children who were sitting in the lobby in two rows facing each other. At that time, all the teachers were present in Room No. 1, situated opposite the place where the children were seated for their meals and near the place where the food was being cooked. He further admitted that the children of the complainant regularly availed themselves of the Mid-Day Meal Scheme and that, at the time of the incident, the children had already finished their meals.

9.4. PW-5, Dalpatdan Kakkaldan Gadhvi, examined at Exh.20, is the person who accompanied the complainant to the

police station for lodging the complaint. The witness stated that, at the relevant time, he was pursuing his LL.B. studies and was acquainted with the complainant. He further stated that, on the day of the incident, he had gone to Satlasana Hospital and his mobile phone was on vibration mode. Upon checking his phone, he noticed eleven missed calls from the complainant. He, therefore, called the complainant, who was crying at that time. During the conversation, the complainant informed him that he had a verbal altercation with accused No. 1 and that accused Nos. 1 and 2 had brought a bottle of medicine and threatened to consume it, whereupon the staff members intervened and separated them. The witness further stated that the complainant informed him that the accused persons had threatened him. Thereafter, he travelled from Satlasana to the school, where the complainant expressed his intention to lodge a police complaint. The witness accompanied the complainant to the Navavas Outpost Police Station, but as the outpost was closed, they proceeded to the Danta Police Station, where the complainant lodged the complaint. The witness further stated that the complainant had informed him that the accused persons had

used expressions such as "Adivasi Bhil" and had made caste-related derogatory remarks against him.

During his cross-examination by the learned advocate for the accused, the witness admitted that he had good relations with the complainant and that they used to visit each other's houses.

9.5. PW-6, Ravjibhai Fulabhai, examined at Exh.21, was serving as the Police Station Officer at Danta Police Station on 16.09.2010. The witness stated that, on the said date, he had registered the complaint lodged by the complainant.

9.6. PW-7, Rohitkumar Dhuljibhai Baranda, examined at Exh.24, is the Investigating Officer. The witness has narrated the procedure undertaken by him during the course of the investigation. During his cross-examination by the learned advocate for the accused, the witness specifically admitted that he had not seized any bottle of medicine from the accused during the course of the investigation.

10. Upon reappreciation of the entire evidence available on record, it appears that the prosecution has not been able to

establish the charges against the accused beyond reasonable doubt. At the outset, it is pertinent to note that there is no cogent and reliable evidence on record to establish that the complainant was a public servant within the meaning of law. The prosecution has also failed to establish the essential ingredients of the offence punishable under Section 332 of the Indian Penal Code. There is no satisfactory evidence to demonstrate that the complainant was voluntarily caused hurt by the accused persons with the intention of preventing or deterring him from discharging his duty as a public servant or on account of anything done by him in the lawful discharge of such duty. Consequently, the necessary ingredients of the said offence remain unestablished.

11. So far as the involvement of accused Nos. 2 and 3 is concerned, the prosecution has failed to establish their specific and individual roles in the alleged incident. The evidence on record does not satisfactorily establish the manner in which

accused Nos. 2 and 3 allegedly assaulted or attempted to assault the complainant. Mere allegations of their presence at the place of incident, without reliable evidence establishing their participation in the commission of the alleged offences, would not be sufficient to record a finding of guilt.

12. Moreover, upon careful scrutiny of the depositions of the complainant and the other prosecution witnesses, it appears that there are material improvements and exaggerations in their versions. Though PW-2, PW-3 and PW-4 have been projected by the prosecution as eyewitnesses, their evidence does not inspire the requisite confidence to establish the prosecution case in its entirety. Their depositions, particularly the admissions elicited during cross-examination, indicate that they were either present in the classroom or at a distance from the place where the alleged conversation had taken place and that they had not heard the actual conversation between the complainant and accused No. 1. PW-2 has categorically admitted that, owing to the

distance and the commotion, she could not hear what transpired between them. Similarly, the evidence of the other witnesses, when considered in the light of their cross-examination, does not provide a consistent and reliable account of the alleged caste-related utterances or the precise circumstances in which the incident occurred. Thus, notwithstanding their description as eyewitnesses, their evidence does not satisfactorily corroborate the material allegations made by the complainant.

13. Another significant circumstance which creates doubt regarding the prosecution version is the failure of the Investigating Officer to seize the alleged bottle of medicine. According to the prosecution, accused No. 1 had gone to his house, brought a bottle of medicine and threatened to consume it, and accused No. 2 had subsequently taken the said bottle in her hands. However, the Investigating Officer, PW-7, has categorically admitted that no such bottle was seized during investigation. Similarly, no pen allegedly distributed by accused

No. 1 to the children was seized. There is also no independent material on record to establish whether accused No. 1 had, in fact, gone to his house and returned with a bottle of medicine, as alleged. These omissions assume significance when considered alongside the material inconsistencies and improvements in the evidence of the prosecution witnesses. It is also relevant to note that PW-5, who accompanied the complainant to the police station, is admittedly on good terms with the complainant and used to visit his house. His evidence regarding the incident is based upon what was subsequently narrated to him by the complainant and, therefore, does not constitute independent corroboration of the actual occurrence. The evidence of PW-6, being the Police Station Officer who registered the complaint, is formal in nature and does not independently establish the allegations levelled against the accused.

14. The prosecution was required to establish its case through cogent, consistent and reliable evidence. However, the

cumulative effect of the material omissions, improvements, lack of independent corroboration and failure to establish the specific overt acts attributed to the accused persons creates a reasonable doubt regarding the prosecution version. It is a settled principle of criminal jurisprudence that suspicion, however strong, cannot take the place of proof and that the accused are entitled to the benefit of every reasonable doubt arising from the evidence on record.

15. In the case of **Ramesh Chandra Vaishya v. State of Uttar Pradesh** reported in **(2023) 17 SCC 615**, the Hon'ble Supreme Court has in Para-17 emphasized the necessity of specifying the actual utterances attributed to the accused for determining whether the ingredients of the offence under the Atrocity Act are attracted and the same is reproduced as under:

> **"17** That apart, assuming arguendo that the appellant had hurled caste related abuses at the complainant with a view to insult or humiliate him, the same does not advance the case of the complainant any further to bring it within the ambit of Section 3(1)(x) of the SC/ST Act. We have noted from the first FIR as well as the

> charge-sheet that the same makes no reference to the utterances of the appellant during the course of verbal altercation or to the caste to which the complainant belonged, except for the allegation/observation that caste-related abuses were hurled. The legislative intent seems to be clear that every insult or intimidation for humiliation to a person would not amount to an offence under Section 3(1)(x) of the SC/ST Act unless, of course, such insult or intimidation is targeted at the victim because of he being a member of a particular Scheduled Caste or Tribe. If one calls another an idiot (bewaqoof) or a fool (murkh) or a thief (chor) in any place within public view, this would obviously constitute an act intended to insult or humiliate by user of abusive or offensive language. Even if the same be directed generally to a person, who happens to be a Scheduled Caste or Tribe, per se, it may not be sufficient to attract Section 3(1)(x) unless such words are laced with casteist remarks."

16. Similarly, in the case of **Gorige Pentaiah v. State of Andhra Pradesh** reported in **(2008) 12 SCC 531**, the Hon'ble Supreme Court has reiterated that the basic ingredients of the offence under Section 3(1)(x) must be established and that a general allegation of caste-based insult, without the necessary particulars, would not be sufficient. The observations in Para 9 are reproduced as under.

> **"9** In the instant case, the allegation of respondent No.3 in the entire complaint is that on 27.5.2004, the appellant

> abused them with the name of their caste. According to the basic ingredients of Section 3(1)(x) of the Act, the complainant ought to have alleged that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe and he (respondent No. 3) was intentionally insulted or intimidated by the accused with intent to humiliate in a place within public view. In the entire complaint, nowhere it is mentioned that the accused-appellant was not a member of the Scheduled Caste or a Scheduled Tribe and he intentionally insulted or intimidated with intent to humiliate respondent No. 3 in a place within public view. When the basic ingredients of the offence are missing in the complaint, then permitting such a complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law.''

17. In the present case, though the complainant has alleged that accused No. 1 referred to him as belonging to the Adivasi/Bhil community and made derogatory remarks, the evidence of the prosecution witnesses does not consistently establish the precise words allegedly uttered by accused No. 1. PW-2 Sonal Himmatsinh has categorically stated that she was standing at a distance and could not hear the conversation between the complainant and accused No. 1. PW-3 Rameshbhai Kharadi has also admitted that he could not hear the exact words

uttered by accused No. 1. The other witnesses have also not furnished a consistent account of the specific caste-related expressions allegedly used by the accused. Thus, the material particulars regarding the actual utterances, the context in which they were made and the intention to humiliate the complainant on account of his caste have not been satisfactorily established.

18. In view of the aforesaid discussion and the principles laid down by the Hon'ble Supreme Court in the above decisions, this Court is of the considered opinion that the prosecution has failed to establish the essential ingredients of the offences alleged against the accused beyond reasonable doubt. The evidence does not satisfactorily establish the specific caste-related utterances attributed to accused No. 1, the requisite intention to humiliate the complainant on account of his caste or the specific overt acts attributed to accused Nos. 2 and 3. The failure to investigate the circumstances surrounding the alleged medicine bottle, the absence of seizure of the material articles,

the improvements in the testimony of the complainant and the other witnesses, and the absence of reliable independent corroboration, when considered cumulatively, create a reasonable doubt regarding the prosecution case.

19. The learned Trial Court has considered these material aspects of the evidence and has rightly extended the benefit of doubt to the accused. The findings recorded by the learned Trial Court are neither perverse nor contrary to the evidence on record. It is well settled that, in an appeal against acquittal, where the view adopted by the learned Trial Court is a reasonable and possible view on the basis of the evidence available on record, the appellate Court would not be justified in interfering merely because another view may also be possible. In the present case, the appreciation of evidence by the learned Trial Court is found to be proper and legally sustainable. Consequently, no interference is warranted with the impugned judgment and order of acquittal, and the same deserves to be

confirmed and resultantly, the present applicant stands dismissed.

20. The impugned judgment and the order dated 20.09.2012 in Special (Atrocity) Case No.10 of 2011 passed by the learned Special Judge and 3rd Additional Sessions, District Banaskantha at Palanpur is hereby confirmed.

21. Bail bond stands cancelled. Record and proceedings be sent back to the concerned Trial Court forthwith.

Sd/-
(S. V. PINTO,J)

F.S.KAZI

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: KAZI FARUKHUSEN(HC01075), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 03/11/2026 15:43:54