

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL NO. 2039 of 2005****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE ILESH J. VORA**

Sd/-

and**HONOURABLE MR. JUSTICE R. T. VACHHANI**

Sd/-

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Approved for Reporting	Yes	No
		No
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STATE OF GUJARAT

Versus

MOHANBHAI MEGHJIBHAI UKANI-PATEL & ANR.

Appearance:

MR BHARGAV PANDYA, APP for the Appellant(s) No. 1

MR HRIDAY BUCH(2372) for the Opponent(s)/Respondent(s) No. 1,2

CORAM: HONOURABLE MR. JUSTICE ILESH J. VORA**and****HONOURABLE MR. JUSTICE R. T. VACHHANI****Date : 06/02/2026****ORAL JUDGMENT****(PER : HONOURABLE MR. JUSTICE ILESH J. VORA)**

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

2. Being dissatisfied by the judgment and order passed by the learned Additional Sessions Judge, Junagadh, passed in Sessions Case No.54 of 1999, dated 29.04.2004, acquitting the respondents from the offence under Section 302 read with Sections 34 and 114 of the IPC.

3. This Court has heard Mr. Bhargav Pandya, learned Additional Public Prosecutor, and Mr. Param Buch, learned counsel for Mr. Hriday Buch, learned counsel appearing for and on behalf of the respondents-accused.

4. At the outset, we may take notice of the fact that the principle accused Mohan Ukani passed away on 25.11.2024 and the appeal qua him stands abated.

5. Brief facts giving rise to file the present Appeal are that, due to land dispute with regard to partition, the father was killed by throwing him in the well situated at the farm itself. The said incident occurred on 29.11.1998 between 7 to 9 p.m. at Village: Juthal, Mangrol. There was a dispute of equal partition of the agricultural land owned by the deceased because the accused Mohan Ukani being a son, demanding half of the share from the land which could not be possible because of other siblings. Before 10 days of the incident, there was a dispute on this aspect and despite of intervention of the Village Sarpanch and others, the accused Mohan was adamant, as a result, the criminal complaint against him came to be filed with Mangrol Police Station and the complaint was not proceeded by the police. In the interregnum period, the deceased father thrown into well and he was died. The cause of death was asphyxia due to drowning. The brother Vallabh Meghji lodged an FIR as before the incident, deceased had informed him that, there was a danger on his life because he was threatened by

the accused Mohanbhai. On the basis of FIR, the accused Mohanbhai and his wife Vijyaben came to be arrested for the alleged offence of murder. Upon due investigation of the case, the chargesheet came to be filed before the Jurisdictional Magistrate. The case was committed to the court of sessions. The charges came to be framed by the sessions court and after framing the charge, the trial court proceeded to record the evidence of the witnesses. In order to prove the charge, the prosecution has examined as many as 10 witnesses and exhibited 22 documents. The defense of the accused in their 313 statement was total denial and false implication. The learned trial court vide order dated 29.04.2004, acquitted the accused from all charges holding that, the prosecution miserably failed to prove the factum of homicidal death and it is a case of suicide. The State being aggrieved with the findings of the trial court, is before us by preferring the present appeal.

6. Mr. Bhargav Pandya, learned Additional Public Prosecutor appearing for the appellant – State, assailing the judgment and order of acquittal, has submitted that the findings of acquittal are contrary to law and evidence on record and the findings recorded are palpably erroneous and based on the irrelevant material. There was no dispute about partition of the land and the manner in which the dead body was found from the well situated in the farm itself, would clearly prove that the accused husband wife and none else has killed the deceased by throwing him into the well.

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

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

8. Mr. Param Buch, learned counsel for Mr. Hriday Buch, learned counsel appearing for the respondent-accused has submitted that the High Court in a case of Appeal against the acquittal, can interfere only when there are compelling substantial reasons for doing so and more particularly, the findings are without reasons and unreasonable and contrary to the evidence. In the facts of the present case, the principle accused Mohanbhai who had raised the dispute of partition of the land, is no more and appeal qua him stands abated. There is no iota of evidence led by the prosecution to show that, the wife-respondent-accused in any manner with a common intention, had actively participated in execution of murder with her husband and therefore, this is a case of no evidence. It is obligation on the part of prosecution to prove that the death was homicidal and in this case, it has not been proved and therefore, the findings of the trial court on this aspect does not require to be interfered and trial court does not have committed any

error either on facts or on law while concluding on the issue of homicidal death.

9. In such circumstances, referred to above, learned counsel appearing for the respondent-accused, has submitted that the Trial Court while discarding the evidence of oral testimonies of the witnesses have assigned cogent and sufficient reasons while acquitting the accused and therefore, the judgment of acquittal passed is well reasoned, legally sustainable and does not suffer any infirmity warranting interference by this Court.

10. 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 bare 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.

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

12. We have carefully examined the oral as well as documentary

evidence and perused the findings of acquittal rendered by the Trial Court. The son of the deceased who had lodged the FIR (PW.1) was declared hostile and in the cross-examination, he did not have supported to the case of prosecution. The other witnesses namely PW.3- Shantilal Kanjibhai, PW.4 – Jeram Lakhani, PW.5 – Village Sarpanch – Prabhaben Patel, though examined, but, they were not witness of the incident. No one has seen that near the well, there was scuffle between the son and father and due to said scuffle, the deceased was thrown into well. In such circumstances, in order to prove the charge of murder, it is duty of the prosecution to prove that, the death was homicidal in nature. So as to infer the complicity of the accused, we cannot take a cognizance of the land dispute between the deceased and the accused Mohanbhai. However, fact remains that, the accused Mohanbhai who was son of the deceased, passed away during the appeal proceedings and so far as accused Vijyaben is concerned, there is no evidence to involve her in the alleged crime. Thus, therefore, the view of the Trial Court as to the findings on the aspect of homicidal death is possible and plausible view and the Trial Court while analyzing the evidence has assigned cogent and sound reasons and therefore, findings of acquittal are reasonable and based on the evidence on record and we do not find any perversity in the findings of acquittal so as to interfere. Thus, in our considered opinion, the Trial Court was justified in acquitting the accused and we are in complete agreement with the findings, ultimate conclusion and resultant order of acquittal recorded by the Court below and hence finds no reason to interfere with the same.

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

Sd/-

(ILESH J. VORA,J)

Sd/-

(R. T. VACHHANI, J)

TAUSIF SAIYED

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: TAUSIFAHMED SAIYED(HC01401), PRIVATE SECRETARY, at High Court of Gujarat on 10/02/2026 16:50:30