IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST ACQUITTAL) NO. 1738 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA

and
HONOURABLE MR. JUSTICE R. T. VACHHANI

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Approved for Reporting	Yes	No

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JYOTIKA JIVANBHAI MEUKAR
Versus
STATE OF GUJARAT & ANR.

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Appearance:
MS DIPMALA S DESAI(6596) for the Appellant(s) No. 1
MR ROHAN RAVAL, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR. JUSTICE R. T. VACHHANI
Date : 07/10/2026
ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE ILESH J. VORA)

1. Here is the Appeal filed under Section 413 of BNSS, by the daughter of the deceased against the judgment and order of acquittal.

2. Being dissatisfied by the judgment and order passed by the learned Additional City Sessions Judge, Ahmedabad passed in Special (Atro) Case No.37 of 2019, dated 30.04.2026, acquitting the accused respondent for the offences punishable under Sections 302 and 392 of the IPC, and Section 135 of the G.P. Act and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the daughter of the deceased has preferred instant appeal.

3. We have heard Ms.Dipmala Desai, learned advocate and Mr.Rohan Raval, learned APP for the respective parties.

4. The factual matrix of the case is as under:

4.1 That on 22.02.2019 at about 05:30 p.m., the deceased Jivanbhai Babbabhai aged about 55 years, was assaulted with wooden log by the respondent accused. According to the prosecution case, the deceased was walking alongside the road with his mobile and when he was busy with talking with someone on mobile, the accused with an intention to rob the mobile phone, struck the deceased on his head with a wooden log and took away the mobile phone from him and fled away from the spot. He was immediately taken to the hospital where he succumbed to injuries. The hospital police informed the family members of the deceased. An FIR with Naroda Police Station, Ahmedabad for causing the death against the unknown person came to be registered. During the investigation, the I.O. of the case obtained CCTV footages of the area where the offence occurred, recorded the statements of the witnesses and based on input, the accused came to be arrested on 10.03.2019. During the investigation, at the instance of the accused, the M.I. mobile phone allegedly used by the deceased was recovered and at the end i.e. after completion of the investigation, the accused was chargesheeted for the offence of murder and robbery.

5. The learned Sessions Judge framed charge to which the accused pleaded not guilty and claimed trial.

6. In order to prove the charge, the prosecution has examined as many as 27 witnesses and relied upon 25 exhibited documents.

7. On conclusion of oral evidence, the Trial Court recorded further statements of the accused as provided under Section 313 of the Code, wherein, they claimed their innocence and stated that they have been falsely implicated in the offence.

8. 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. The Trial Court while acquitting the accused, has observed that the prosecution story based on suspicion as there is no direct evidence found against the accused. The prosecution case entirely based on circumstantial evidence. The circumstances relied upon by the prosecution like; motive, conduct of the accused, recovery and discovery of the mobile and forensic evidence, pointing towards the guilt of the accused, having not been proved by way of reliable clinching evidence and various link as referred in the chain of circumstances are inconclusive and does not cogently and firmly establish to draw a conclusion that within all human probabilities, the crime in question being committed by the accused and non-else.

9. In such circumstances, the Trial Court while acquitting the accused, held and observed that the prosecution has not been able to prove the charge against the accused by reliable and cogent evidence beyond reasonable doubt.

10. Ms.Dipmala Desai, learned counsel appearing for the appellant, while assailing the impugned judgment and order of acquittal, made the following submissions:

(A) 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;

(B) That the Trial Court failed to appreciate that the arrest panchnama at Exh.49 records that the MI mobile phone was found with the accused at the time of arrest and the recovery of the phone has been proved by the I.O. Thus, in absence of any explanation whatsoever for how the accused came into possession of the mobile would prove the involvement of the accused in the crime.

(C) That the motive for murder is clearly established, however, the Trial Court has ignored the material circumstance. The recovery of mobile phone from the accused and in absence of any explanation by the accused, the legitimate inference could have been drawn that the accused was having motive to loot the mobile.

(D) That the CCTV footages obtained the panchnama at Exh.66 would further prove that the accused was present at the place of the incident and after the incident, he fled away with the mobile.

(E) That the deceased belongs to SC Community and having regard to the statutory provisions, the charge under the Atrocity Act having been proved and established

11. In such circumstances, Ms.Dipmala Desai, learned counsel submitted that the prosecution succeeded in proving the charge against the accused beyond reasonable doubt and chain of incriminating circumstances required to bring home the guilt of the accused is complete

in all aspects, and therefore, when the complete chain of events leading to the involvement of the crime in question is proved and established, the Trial Court, in that view of the matter, while acquitting the accused committed a serious error in appreciating the evidence. Therefore, the findings of acquittal are not based on the evidence, suffers from legal infirmity, perverse and fundamentally erroneous and thus, it is prayed that the impugned judgment is not sustainable in law.

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

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

14. 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.

15. Undoubtedly, the prosecution case rests on the circumstantial evidence. The law with regard to the conviction on the basis of circumstantial evidence has been laid down in the judgment of **Sharad**

Bardhichand Sharda Vs. State of Maharashtra (1984 (4) SCC 116). Paras-152 and 153 of the judgment reads as under:

> *"152. Before discussing the cases relied upon by the High Court we would like to cite a few decisions on the nature, character and essential proof required in a criminal case which rests on circumstantial evidence alone. The most fundamental and basic decision of this Court is Hanumant v. State of Madhya Pradesh [AIR 1952 SC 343 : 1952 SCR 1091 : 1953 Cri. LJ 129]. This case has been uniformly followed and applied by this Court in a large number of later decisions up-to-date, for instance, the cases of Tufail (Alias) Simmi v. State of Uttar Pradesh [(1969) 3 SCC 198: 1970 SCC (Cri.) 55] and Ramgopal v. State of Maharashtra [(1972) 4 SCC 625 : AIR 1972 SC 656]. It may be useful to extract what Mahajan, J. has laid down in Hanumant case [AIR 1952 SC 343 : 1952 SCR 1091 : 1953 Cri. LJ 129]:*
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> *It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground far a conclusion consistent with the innocence of the accused and it must be such as to*

show that within all human probability the act must have been done by the accused.

153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned 'must or should' and not 'may be' established. There is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved' as was held by this Court in Shivaji SahabraoBobade & Anr. v. State of Maharashtra [(1973) 2 SCC 793 : 1973 SCC (Cri.) 1033 : 1973 Cri. LJ 1783] where the following observations were made: [SCC para 19, p. 807 : SCC (Cri. p. 1047)

Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions.

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say. they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency.

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."

16. The circumstances on which the prosecution relies are as follows:

(i) Motive for committing murder - on 22.02.2019, while deceased was busy on his mobile phone, the accused with an intention of robing the mobile phone, caused head injuries with wooden log.

(ii) Recovery of mobile phone – On 10.03.2019, the I.O. on the specific input arrested the accused and recovered the MI mobile phone from him.

(iii) CCTV footages – The evidence of CCTV footages of the area where the offence alleged to have been committed shows the presence of the accused.

(iv) In absence of any explanation of the accused would additional link to complete the chain of events.

17. Having regard to the evidence on record, the issue falls for our consideration as to whether the circumstances as referred above forms chain of events pointing only to the guilt of the accused and non-else.

18. It is not in dispute that the death of the deceased is homicidal in nature and therefore, there is no need to further discussion on this issue.

19. Now let us examine the circumstances relied upon by the prosecution.

(1) Motive – In the present case, the accused came to be arrested on 10.03.2019 i.e. after 18 days of the incident. The MI mobile phone was used by the deceased. The family members of the deceased have not disclosed before the police that the mobile phone of the deceased being stolen and/or robbed by the accused. The panchas of the arrest panchnama at Exh.48 have not supported to the case of the prosecution. The confession of the accused as mentioned in the panchnama at Exh.48 cannot be proved against the accused because Section 25 of the Evidence Act says that no confession made to a police officer shall be proved against the accused. It is relevant to note that the invoice of MI mobile phone proving the ownership of the deceased having not been produced and proved. Thus, the motive on the part of the accused while causing the injuries to the deceased has not been proved and established.

(2) Evidence of CCTV footages – In the present case, the I.O. had obtained CCTV footages in pen-drive and panchnama to this effect being drawn at Exh.55. The panchas have not supported to the case of the prosecution. Exh.56 pen-drive does not properly reveal the identity of the accused in the CCTV footages. The certificate of 65B, has not been issued by the person who is in control of the electronic evidence. In such circumstances, the

identity of the accused in the alleged crime, on the basis of the CCTV footages, is not proved and established.

(3) Non-explanation of the accused about the recovery of mobile phone – It is settled position of law that it is the prosecution to prove the charge beyond reasonable doubt by adducing cogent and credible evidence against the accused and the accused is not bound to explain incriminating circumstances. In the present case, the recovery mobile itself is doubtful, the question does not arise to draw adverse inference against the accused for alleged non-explanation as raised by the prosecution.

20. For the reasons recorded, we are of the considered opinion that the prosecution failed to prove all incriminating necessary circumstances by reliable and clinching evidence which would constitute a complete chain without any gap, pointing to the guilt of the accused. We are conscious about the seriousness of the offence but the circumstances howsoever strong cannot take place of proof and conviction is not permissible on the basis of suspicion. It is in this context, we may profitably refer the observations made by the Supreme Court in the case of **Surendra Koli Vs. State of U.P. (2025 LawSuit S.C. 1479)**, wherein while acquitting the accused, it was observed that when the proof fails, the only lawful outcome is to set aside the conviction even in a case of involving horrific crime.

21. In light of what has been noted above, the view taken by the Trial Court for acquitting the accused is plausible view and the findings of the acquittal being considered after proper appreciation of the evidence and thus, we do not find any perversity in the findings 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 before the Court below. 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 08/10/2026 18:03:08