IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST ACQUITTAL) NO. 1427 of 2016

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
THAKOR PRAVINJI RAJUJI & ORS.

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Appearance:
MR. KRUTIK PARIKH, APP for the Appellant(s) No. 1
MR. YOGENDRA THAKORE for the Opponent(s)/Respondent(s) No. 1,2,3

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

Date : 05/11/2026

JUDGMENT

1. This appeal has been filed by the Appellant – State under Section 378 (1)(3) of the Code of Criminal Procedure, 1973 against the judgment and order of acquittal passed by learned 3rd Additional Sessions Judge, Mehsana (hereinafter referred to as "learned Trial Court") in Sessions Case No. 24 of 2014 on 18.06.2016, whereby, the learned Trial Court has acquitted the respondents for the offence punishable under Sections 498(A), 306 and 114 of Indian Penal Code, 1860 (hereafter referred to as "IPC" for short) and Sections 3 and 7 of the Dowry Prohibition Act, 1961.

1.1 The respondents are hereinafter referred to as the accused in the rank and file as they stood in the original case for the sake of convenience, clarity and brevity.

2. The brief facts that emerge from the record of the case are as under:-

2.1 The accused No. 1 was married to deceased Vinitaben - daughter of the complainant Varvaji Somaji Thakor, approximately three years prior to the date of the incident. Thus, the accused No. 1 was the husband of the deceased, whereas, the accused Nos. 2 and 3 were her father-in-law and mother-in-law respectively. As per the case of the prosecution, all the accused persons subjected the deceased to physical and mental harassment and demanded an amount of Rs.20,000/- from her for the purpose of constructing a house. It is further alleged that the accused persons used to taunt the deceased on account of her being childless. Being fed up with the alleged harassment, meted out to her, by the accused persons, the deceased, on 12.01.2013, at some time prior to 20:00 hours, committed suicide by hanging herself at Village Sarana, Taluka: Vadnagar and the complainant Varvaji Somaji Thakor filed a complaint before the Assistant Superintendent of Police, Visnagar Division under Sections 498(A), 306 and 114 of IPC and Sections 3

and 7 of the Dowry Prohibition Act, 1961, which came to be registered as I-C.R.No.91 of 2013 before Vadnagar Police Station.

2.2 The Investigating Officer recorded the statements of the connected witnesses and seized the necessary documents and after completion of investigation, the charge-sheet came to be filed before the Court of the Judicial Magistrate First Class, Vadnagar and as the said offences against the accused were exclusively triable by the Court of Sessions, the case was committed to the Sessions Court, Mehsana as per the provisions of Section 209 of the Code of Criminal Procedure and case was registered Sessions Case No. 24 of 2014.

2.3 The accused were 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. A charge at Exh. 5 was framed against the accused and the statements of the accused were recorded at Exhs. 6 to 8, wherein, the accused denied all the contents of the charge and the entire evidence of the prosecution was taken on record.

2.4 The prosecution produced nine oral and twenty two documentary evidences to bring home the charge against the

accused and after the learned Additional Public Prosecutor filed the closing pursis at Exh:47, the further statement of the accused under Section 313 of the Code of Criminal Procedure, 1973 were recorded, wherein, the accused denied all the evidence of the prosecution on record. After the arguments of the learned Additional Public Prosecutor and the learned advocate for the accused were heard, the learned trial Court by the impugned judgment and order was pleased to acquit all the accused from all the charges leveled against them.

3. Being aggrieved and dissatisfied with the said judgment and order of acquittal, the appellant - State has filed the present appeal mainly stating that the impugned judgment and order of acquittal passed by the learned Trial Court is contrary to law and evidence on record and the learned Trial Court has not appreciated the fact that all the witnesses have supported the case of the prosecution and during cross-examination, nothing adverse has been elicited in favor of the respondents. The case has been proved beyond reasonable doubts and the prosecution has successfully established the case against the respondents and the judgment and order of acquittal is unwarranted, illegal and without any basis in the eyes of law and the reasons stated while acquitting the respondents are

improper, perverse and bad in law. Hence the impugned judgment and order passed by the learned Trial Court deserves to be quashed and set aside.

4. Heard learned APP Mr. Krutik Parikh for the appellant – State, learned advocate Mr. Yogendra Thakore for the respondent Nos. 1 to 3. 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 Mr. Krutik Parikh has taken this Court through the entire evidence of the prosecution on record of the case and has submitted that the judgment and order of acquittal is contrary to law and evidence on record and the learned Trial Court has not appreciated the direct and indirect evidence in the case. That the complainant has supported the case of the prosecution and the witnesses have identified the accused before the learned trial Court. The prosecution has fully proved the case beyond reasonable doubts but the learned trial Court has relied on minor contradictions and has given undue weightage with regard to the place of incident. That the order passed by the learned Trial Court is illegal, improper and perverse and is required to be quashed and set aside and the appeal of the appellant must be allowed.

6. Learned advocate Mr. Yogendra Thakore for the respondents, while assailing the case of the prosecution, has submitted that there is no witness on record having any personal knowledge of the alleged physical or mental cruelty or any unlawful demand made by the respondents from the deceased. The general allegations attributed to the deceased are vague, uncorroborated and spread over the entire period of her matrimonial life, without reference to any specific date, occasion or particular incident. Such general and omnibus allegations do not satisfy the test of proximity between the alleged cruelty and the death of the deceased. It is further submitted that none of the prosecution witnesses had any personal knowledge of the alleged incidents of harassment, and some of the witnesses have, in fact, deposed that the deceased was treated well by the respondents and that they had never heard of any harassment or cruelty being inflicted upon her by the respondents. It is further submitted that, as per the prosecution case, a telephone call was received by the son of the complainant; however, the said son has not been examined by the prosecution. The allegation regarding physical assault upon the deceased is also not substantiated by the medical evidence, as the Medical Officer has not noticed any external

injuries on the body of the deceased except the ligature mark. It is further pointed out that respondents Nos. 2 and 3 were residing at Village Sarana, whereas the deceased was residing with respondent No. 1 at Visnagar. No specific date, time or particular act of cruelty has been attributed to respondents Nos. 2 and 3. Though allegations have been levelled that the respondents used to taunt the deceased on account of her being childless, the said allegations have not been established by any cogent and reliable evidence. The learned advocate has further submitted that the essential ingredients of Sections 306 and 107 of the Indian Penal Code are not established from the evidence on record. The presumption under Section 113-A of the Indian Evidence Act is also not attracted, as the prosecution is required to establish, as a foundational fact, that the deceased was subjected to cruelty within the meaning of Section 498-A of the Indian Penal Code, which has not been proved in the present case. Consequently, there is no admissible and reliable evidence on record to establish the allegations levelled against the respondents. It is also contended that the alleged demand of Rs.20,000/- for the purpose of constructing a house rests entirely upon unsubstantiated allegations and has not been proved by the prosecution beyond

reasonable doubt. Though the grandfather of the deceased was residing at Visnagar, in the vicinity of the matrimonial house of the deceased, and his statement had also been recorded during the course of the accidental death inquiry, the prosecution has not examined him as a witness before the learned Trial Court. It is, therefore, submitted that the learned Trial Court has properly appreciated the entire evidence available on record and has rightly arrived at its conclusion, warranting no interference by this Court.

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 in acquittal appeals in the case of ***Chandrappa & Ors. Vs. State of Karnataka*** reported in ***2007 (4) SCC 415***, wherein, the Apex Court has observed as under:

> *Recently, in Kallu v. State of M.P., (2006) 10 SCC 313 : AIR 2006 SC 831, this Court stated; "While deciding an appeal against acquittal, the power of the Appellate Court is no less than the power exercised while hearing appeals against conviction. In both types of appeals, the power exists to review the entire evidence. However, one significant difference is that an order of acquittal will not be interfered with, by an appellate court, where the judgment of the trial court is based on evidence and the view taken is reasonable and plausible. It will not reverse the decision of the trial court merely because a different view is possible. The appellate court will also bear in mind that there is a presumption of innocence in favour of the accused and the accused is entitled to get the benefit of any doubt. Further if it decides to interfere, it should assign reasons for differing with the decision of the trial court". (emphasis supplied)*
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> *From the above decisions, in our considered view, the following general principles regarding powers of appellate Court while dealing with an appeal against an order of acquittal emerge;*

> *(1) An appellate Court has full power to review, re-appreciate and reconsider the evidence upon which the order of acquittal is founded; (2) The Code of Criminal Procedure, 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 emphasize 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.*
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> *(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 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.*
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> *(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.*

8. The law with regard to acquittal appeals is well crystallized and in acquittal appeals, there is presumption of innocence in favour of the accused and it has finally culminated when a case ends in an acquittal. The learned Trial Court has appreciated all the evidence and when the learned Trial Court has come to a conclusion that the prosecution has not proved the case beyond reasonable doubts, the presumption of innocence in favour of the accused gets strengthened. There is no inhibition to re-appreciate

the evidence by the Appellate Court but if after re appreciation, the view taken by the learned Trial Court was a possible view, there is no reason for the Appellate Court to interfere in the same.

9. As the appeal pertains to a case under Section 306 of the IPC, it would be appropriate to reproduce the observations of the Hon'ble Apex Court in the case of ***Mahendra Awase Vs. The State of Madhya Pradhesh*** in ***Criminal Appeal No. 221/2025*** **(**@ *SLP(Cr) No. 11868/2023***)** passed on 17th January, 2025 which is as under**:**

> *11. Section 306 of the IPC reads as under:-*
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> *"306. Abetment of suicide. If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."*
>
> *12. Section 107 of the IPC reads as under:-*
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> *"107. Abetment of a thing.-A person abets the doing of a thing, who-*
>
> *First. - Instigates any person to do that thing; or*
>
> *Secondly. - Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or*
>
> *Thirdly. - Intentionally aids, by any act or illegal omission, the doing of that thing."*
>
> *As is clear from the plain language of the Sections to attract the ingredient of Section 306, the accused should have abetted the commission of a suicide. A person abets the doing of a thing who Firstly - instigates any person to do that thing or Secondly - engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing*

or Thirdly - intentionally aids, by any act or illegal omission, the doing of that thing.

13. In Swamy Prahaladdas vs. State of M.P. and Another, [1995 Supp (3) SCC 438], the appellant remarked to the deceased that 'go and die' and the deceased thereafter, committed suicide. This Court held that:-

"3. ...Those words are casual nature which are often employed in the heat of the moment between quarreling people. Nothing serious is expected to follow thereafter. The said act does not reflect the requisite 'mens rea' on the assumption that these words would be carried out in all events. ..."

14. In Madan Mohan Singh vs. State of Gujarat and Another, (2010) 8 SCC 628, this Court held that in order to bring out an offence under Section 306 IPC specific abetment as contemplated by Section 107 IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. It was further held that the intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for attracting Section 306.

15. In Amalendu Pal alias Jhantu vs. State of West Bengal, (2010) 1 SCC 707, this Court held as under:-

"12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable. [Emphasis supplied]

16. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.

17. M. Mohan vs. State, (2011) 3 SCC 626 followed Ramesh Kumar vs. State of Chhattisgarh, (2001) 9 SCC 618, wherein it was held as under:-

41. This Court in SCC para 20 of Ramesh Kumar has examined different shades of the meaning of "instigation". Para 20 reads as under: (SCC p. 629)

"20. Instigation is to goad, urge forward, provoke, incite or encourage to do 'an act'. To satisfy the requirement of instigation though it is not necessary

that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."

In the said case this Court came to the conclusion that there is no evidence and material available on record where-from an inference of the appellant accused having abetted commission of suicide by Seema (the appellant's wife therein) may necessarily be drawn."

Thereafter, this Court in Mohan (supra) held:-

45. The intention of the legislature and the ratio of the cases decided by this Court are clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide." [Emphasis supplied]

10. In light of the above settled principles of law, the evidence on record of the case is appreciated and Prosecution Witness No.1 Dr. Suresh Kumar Somabhai Patel, examined at Exh: 10, is the Medical Officer who was on duty at General Hospital, Vadnagar, and had conducted the post-mortem examination on the dead body of deceased Vinitaben on 12.11.2013. The witness has produced the post-mortem note at Exh: 11 and the Cause of Death Certificate at Exh: 14. As per the deposition of the witness and the medical documents produced on record, the cause of death of the deceased was asphyxia due to hanging.

10.1] Prosecution Witness No.2 Varvaji Somaji Thakor examined at Exh: 19, is the complainant and father of the deceased. The witness has narrated the facts as stated in the complaint, which has been produced at Exh: 20.

During his cross-examination, the witness has admitted that his daughter was residing at Visnagar with accused No. 1 and that her grandfather was also residing at Visnagar. The witness has further admitted that his daughter had never informed him about any harassment or ill-treatment meted out to her by the accused persons and that she had not lodged any police complaint against the accused during her lifetime.

10.2] Prosecution Witness No.3 Khodaji Takhaji Thakor examined at Exh: 21, is a panch-witness to the panchnama of the scene of offence, which has been produced at Exh: 22.

10.3] Prosecution Witness No.4 Viramji Varvaji Thakor examined at Exh:23, is the brother of the deceased and has supported the case of the prosecution.

However, during his cross-examination, the witness has stated that accused No. 1 was working at a place prior to his marriage and, thereafter, was working at Shukan Hotel at Visnagar. He has further stated that his sister was residing at Visnagar and that she had never informed him about any harassment or ill-treatment being inflicted upon her by the accused persons.

10.4] Prosecution Witness No.5 Prahladji Amaratji Thakor**,** examined at Exh: 25, is the uncle of the deceased and has supported the case of the prosecution.

During his cross-examination, the witness has stated that he had read about the incident in the newspaper and had gone to Village Kuda on the third day. His statement was recorded by the police on the way. He has further stated that on the day when the complaint was lodged, he had recommended that proper investigation be conducted in connection with the incident dated 12.11.2013. The witness has admitted that he did not know whether the deceased and accused No. 1 were residing at Visnagar.

He was aware that the deceased used to frequently visit her grandfather's house. He has further stated that the relatives of the deceased had informed him that the police were not recording their complaint and, therefore, he had recommended to the police that the complaint be registered and an appropriate investigation be carried out.

10.5] Prosecution Witness No.6 Udaji Talaji Thakor, examined at Exh: 26, is the uncle of the deceased. The witness has not supported the case of the prosecution and has been declared hostile.

During his cross-examination, the witness has stated that there was no dispute between accused No. 1 and the deceased and that the deceased was being treated well by him. He has further stated that accused No. 1 was working at Shukan Hotel at Visnagar and that he had merely accompanied the complainant as he was his relative.

10.6] Prosecution Witness No.7 Yusufkhan Usmankhan Shaikh examined at Exh: 28, is the Police Station Officer, who had

registered the complaint. The witness has produced the relevant extract of the station diary at Exh: 29.

10.7] Prosecution Witness No.8 Dipakkumar Vasudevbhai Meghani, examined at Exh: 33, is the Asst. Superintendent of Police, Visnagar, who had conducted the inquiry into the accidental death of the deceased and had recorded the complaint of the complainant during the course of such inquiry.

During his cross-examination, the witness has stated that he had recorded the statement of the complainant on 13.11.2013, wherein the complainant had stated that he did not have any suspicion against any person with regard to the death of his daughter. The complainant had also not stated that the accused persons had demanded any amount from his daughter or that they were subjecting her to physical or mental harassment. The witness has further stated that one Somaji Motiji had also stated that the deceased was not subjected to any physical or mental harassment by the accused persons and that he did not have any suspicion against anyone in connection with her death. The witness has

admitted that, during the proceedings of the accidental death inquiry, he had not found any ingredients constituting an offence under Section 306 of the Indian Penal Code or any offence under the Dowry Prohibition Act.

10.8] Prosecution Witness No.9 Kanubhai Becharbhai Patel, examined at Exh: 35, is the Investigating Officer, who has deposed about the procedure undertaken by him during the course of investigation.

During his cross-examination, the witness has stated that he had obtained the papers pertaining to Accidental Death Inquiry No. 19 of 2013. He has admitted that the said papers did not contain any allegation of physical or mental harassment by the accused persons prior to the death of the deceased. The witness has further admitted that the deceased had never lodged any complaint against the accused persons alleging harassment or ill-treatment during her lifetime.

11] Upon an overall appreciation of the entire evidence adduced by the prosecution, it emerges that there are material

contradictions and inconsistencies in the depositions of the prosecution witnesses. There is no clear, cogent or reliable evidence establishing that the deceased was subjected to physical or mental cruelty by the accused persons or that any demand towards dowry was made from her. Though allegations have been leveled against the accused persons, the same have not been substantiated by any independent or reliable evidence. Significantly, during her lifetime, the deceased had never lodged any complaint with the police or any other authority alleging harassment, cruelty or demand of dowry by the accused persons. Even the complainant, in his statement recorded during the course of Accidental Death Inquiry No. 19 of 2013, had not raised any suspicion against any person in connection with the death of his daughter, nor had he made any allegation regarding physical or mental harassment or demand of money by the accused persons. The said material omissions and subsequent improvements in the prosecution version assume considerable significance while assessing the credibility of the allegations leveled against the accused.

11.1] The evidence on record, therefore, does not establish any positive act of instigation, intentional aiding or abetment on the part of the accused persons so as to attract the ingredients of Section 306 read with Section 107 of the Indian Penal Code. The mere fact that the deceased committed suicide by hanging, by itself, would not be sufficient to hold the accused persons guilty of the offence of abetment of suicide in the absence of cogent evidence establishing the requisite ingredients of the offence. The prosecution has failed to establish the essential ingredients of the alleged offence beyond reasonable doubt.

12] In view of the aforesaid discussion, this Court is of the considered opinion that the learned Trial Court has properly appreciated the oral as well as documentary evidence available on record and has assigned cogent and convincing reasons for arriving at the conclusion that the prosecution failed to establish the charges levelled against the accused persons. The findings recorded by the learned Trial Court are based on a proper appreciation of the evidence and do not suffer from any perversity,

illegality or infirmity warranting interference by this Court in its appellate jurisdiction. Consequently, the judgment and order of acquittal passed by the learned Trial Court deserves to be confirmed.

13] The impugned judgement and order of acquittal passed by the 3rd Additional Sessions Judge, Mehsana in Sessions Case No. 24 of 2014 on 18.06.2016 is hereby confirmed.

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

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

VISHAL MISHRA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: VISHAL VISHNUPRASAD MISHRA(HC01088), STENO GR II, at High Court of Gujarat on 05/11/2026 14:41:18