IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST ACQUITTAL) NO. 2300 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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STATE OF GUJARAT
Versus
SHAHRUKH @CHECHI IQBALBHAI VORA & ORS.

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Appearance:
MS VRUNDA SHAH APP for the Appellant(s) No. 1

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

Date : 30/10/2026

ORAL JUDGMENT

(PER : HONOURABLE MR. JUSTICE R. T. VACHHANI)

1. The present appeal is preferred by the appellant-State under Section 419 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "BNSS") against the judgment and order of acquittal dated 05.05.2025 passed by the learned 8th Additional Sessions Judge, Vadodara (hereinafter referred to as "the Sessions Court") in Sessions Case No.203 of 2018, whereby the respondents, being original Accused Nos.1, 2, 4, 5

and 6, came to be acquitted of the offences punishable under Sections 302 and 201 read with Section 120-B of the Indian Penal Code, 1860 (for short, "IPC") and Sections 25(1-B)(a) and 27(2) of the Arms Act, 1959.

1.1 During the pendency of the trial, original Accused No.3, Yogendra Chhabila Shah, expired and the proceedings qua him stood abated by order passed below Exh.1 dated 09.01.2025. The present appeal is, therefore, confined to original Accused Nos.1, 2, 4, 5 and 6, who are arrayed as respondent Nos.1 to 5 respectively. For the sake of convenience, the respondents are referred to hereinafter by their original status before the Sessions Court.

2. Briefly stated, the facts of the case of the prosecution are that, the deceased Bhaumik, son of the original complainant Ashvinbhai Bhaylalbhai Patel, was residing separately and was engaged in business. On 02.03.2018, at about 7:00 a.m., the deceased visited the house of the complainant to fit an LED light and asked his mother to keep his tiffin ready for the next morning. As he had forgotten the keys of his flat, his mother handed over the keys to him at Bhayli Otla, where he came in the Ford EcoSport car bearing Registration No.GJ-06-HL-4574.

2.1 On 03.03.2018, the mother of the deceased repeatedly tried to contact him on his mobile phone, but the calls went unanswered. At about 9:30 a.m., the complainant found the flat of the deceased locked and the EcoSport car missing. At about 11:30 a.m., one Soumit Akshaybhai Amin informed the complainant that the police were making inquiries as the said car had been found abandoned opposite Baliyadev Temple on the

road leading towards Pirodnagar. On reaching the spot, the complainant noticed bloodstains inside and outside the vehicle and the sandals of the deceased lying inside it. A missing person report came to be lodged.

2.2 On 05.03.2018, at about 3:00 p.m., on information received from one Gaurangbhai about bloodstains near an open vent of the industrial wastewater canal running from Ampad towards Lakdikui, a search was undertaken and, at about 5:30 p.m., near Hinglot sim, a decomposed and bloated dead body was found inside the canal beneath a drainage slab. The body was identified as that of Bhaumik from his physical features and tattoos, including a tattoo bearing the name "Bhaumik". First Information Report being C.R. No.09 of 2018 came to be registered with Vadodara Taluka Police Station, initially against unknown persons, for the offences punishable under Sections 302 and 201 IPC.

3. In pursuance of the complaint lodged by the complainant, investigating agency recorded statements of the witnesses, collected relevant evidence in form of medical evidence and drawn various Panchnamas and other relevant evidence for the purpose of proving the offence. After having found material against the respondent accused, charge-sheet came to be filed in the Court of concerned learned JMFC. As said Court lacked jurisdiction to try the offence, it committed the case to the concerned Sessions Court as provided under section 209 of the Code.

4. Upon committal of the case to the learned Sessions Court, learned Sessions Judge framed charge against the respondents-accused for the

aforesaid offence. The respondent accused pleaded not guilty and claimed to be tried

5. In order to bring home charge, the prosecution has examined various witnesses and also produced various documentary evidence before the learned Sessions Court, as has been described in the impugned judgment and order.

6. On conclusion of evidence on the part of the prosecution, the trial Court put various incriminating circumstances appearing in the evidence to the respondent accused so as to obtain his explanation/answer as provided u/s 313 of the Code. In the further statement, the respondent accused denied all incriminating circumstances appearing against him as false and further stated that he is innocent and false case has been filed against him. After hearing both the sides and after analysis of evidence adduced by the prosecution, the learned Sessions Judge acquitted the respondent accused of the offences, for which he was tried, as the prosecution failed to prove the case beyond reasonable doubt.

7. We have heard learned APP appearing for the appellant – State of Gujarat and have minutely examined the documentary evidence provided to us by learned Advocate during the course of hearing.

7.1 Learned Advocate appearing for the appellant – State has submitted that the learned Trial Court has failed to appreciate the oral and documentary evidence adduced by the prosecution in its correct perspective. It is submitted that the impugned judgment reflects a

complete non-application of judicial mind, and the appreciation of evidence is perverse, arbitrary, and contrary to settled principles of criminal jurisprudence. It is further submitted that the Learned Sessions has overlooked material evidence and thereby committed grave error in acquitting the accused.

7.2 It is further submitted by learned APP that the impugned judgment and order of acquittal is contrary to the statutory provisions, settled law laid down by the Hon'ble Supreme Court, and the evidence brought on record. The Sessions Court has ignored crucial material including the post-mortem report, circumstantial links, motive, recovery panchnamas, and corroborative witness statements. It is submitted that the Learned Sessions Court has committed a serious error in not holding the accused guilty despite strong prima facie evidence, including motive, prior threats, last-seen circumstances, recovery of incriminating articles, and consistent testimonies of prosecution witnesses. The Sessions Court ought to have drawn proper inferences from the chain of circumstances, which unerringly point towards the guilt of the accused.

7.3 It is further submitted by learned APP that the Learned Sessions Court has misread, misinterpreted, and wrongly discarded the material evidence adduced by the prosecution. It is submitted that the appreciation of facts, circumstances, and evidence is perverse and wholly unreasonable, resulting in an erroneous acquittal. It is submitted that the Sessions Court failed to consider the cumulative effect of the entire chain of circumstances which were complete and consistent, thereby warranting conviction.

7.4 It is further submitted by the learned APP that the learned Court has erred in discarding the evidence of the complainant, who had no motive or reason to falsely implicate the accused. It is submitted that the testimony of the complainant is natural, credible, and consistent with the prosecution case and the Sessions Court has failed to appreciate that sole testimony of a reliable witness can form the basis of conviction.

8. Having heard the learned APP appearing for the appellant – State and having examined the impugned judgment and order of acquittal rendered by the learned Sessions Court, as well as, the evidence so adduced by the prosecution, it would appear that the prosecution has failed to prove that respondent No.1 – org. accused No.1 was doing the partnership business and they had borrowed the money from the complainant and his son and when they demanded their money back, the accused persons had hatched a conspiracy to kill them and as a part thereof, it was decided to give Rs.3,00,000/- to the org. accused No.4 and 5 and thereafter transferred the amount of Rs.30,000/- in the account of org. accused No.5 and mobile phone was given to org. accused No.4. From the evidence so adduced before the Court, it also appears that the prosecution has failed to prove the factum as to commission of murder of the complainant and to destroy the evidence after commission of the crime. The learned Sessions Court has rightly come to the conclusion that the prosecution has failed to prove the factum as to last seen together of the accused persons prior to and after the commission of the offence and this Court is in complete agreement with the said finding. It would be apt to note that in absence of any evidence connecting the accused with the deceased during the crucial period between the time he was last seen

alive and the time his car and body were found leaves a significant gap in the chain, which, in the opinion of this Court has not been filled by any other proved circumstance. The prosecution case that the deceased was "called out" and taken in the car by the accused remains wholly unproved.

9. It would also appear that the footage was scientifically examined by PW-50, Kushal Master, and was accompanied by a certificate under Section 65-B of the Evidence Act. Compliance with Section 65-B of the Evidence Act pertains to the admissibility of the electronic record; however, admissibility is distinct from the probative value of the evidence. Even assuming that the footage is admissible and genuine, it establishes, at the highest, that accused No. 4 was present with accused No.1 at the latter’s shop on the day preceding the incident. Rhythm Electronics was the business premises of accused No.1 and, according to the prosecution itself, also of the deceased. The presence of a person at a business establishment during working hours and a conversation lasting approximately eight minutes are innocuous circumstances which, in the absence of any evidence as to the subject matter of the conversation, are equally consistent with innocence. The prosecution has relied upon the footage only to establish association and not to prove the contents of the conversation. However, mere association, by itself, does not establish the conspiracy and to prove the conspiracy the prosecution has to lead the cogent and substantial evidence to link the accused with the crime. This Court, therefore, does not find any infirmity in the view taken by the Sessions Court that this circumstance, either by itself or in conjunction with the CDR evidence, does not establish the alleged conspiracy.

10. Now, insofar as the argument of the learned APP that the case on hand rests on a circumstantial evidence and the prosecution has successfully completed the entire link to connect the accused with the crime, it would be apt to note that while leading the case, the prosecution is required to establish mainly three links of chain (i) motive; (ii) last seen; and (iii) recovery of weapon of assault, showing involvement of the accused. Thus, while dealing with the evidence on record, the Court concerned is required to appreciate as to whether the aforesaid three aspect is completed to prove the case of prosecution or not and if no then the benefit of that would go to the accused as the prosecution has failed to prove its case beyond reasonable doubt while missing to complete the entire of circumstance. In a case of circumstantial evidence, the chain is required to be completed as mandated under the law so as to indicate the guilt of the accused while discarding any other theory of the crime. If one of the link goes missing and not proved, in view of the settled law on the point, the conviction is required to be interfered with.

11. In view of the settled law that one must look for a complete chain of circumstances and not on snapped and scattered links which do not make a complete sequence. The circumstances from which the conclusion of guilt is drawn should be fully proved, and such circumstances must be conclusive in nature. Moreover, all the circumstances should be complete, and there should be no gap left in the chain of evidence; in the present case, the chain is not completed. Under the circumstances, the learned Sessions Court has rightly acquitted the respondent accused for the elaborate reasons stated in the impugned judgment and we also endorse the view/finding of the learned trial Judge leading to the acquittal.

12. It is a cardinal principle of criminal jurisprudence that in an acquittal appeal if other view is possible, then also, the appellate Court cannot substitute its own view by reversing the acquittal into conviction, unless the findings of the Sessions Court are perverse, contrary to the material on record, palpably wrong, manifestly erroneous or demonstrably unsustainable. In the instant case, the learned APP appearing for the appellant – State has not been able to point out to us as to how the findings recorded by the learned Sessions Court are perverse, contrary to material on record, palpably wrong, manifestly erroneous or demonstrably unsustainable.

13. At this juncture, it is apt to refer the judgment of the Supreme Court, in the case of ***Tulasareddi @ Mudakappa & Anr. v. The State of Karnataka & Ors., 2026 INSC 67***, the relevant paragraphs of which read as under:

> *"29. From the aforesaid decisions rendered by this Court, it can be said that if two reasonable conclusions are possible on the basis of the evidence on record, the Appellate Court should not disturb the findings of acquittal recorded by the Trial Court. Further, 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. The following principles have to be kept in mind by the Appellate Court while dealing with the appeals against an order of acquittal:*
>
> *(a) whether the judgment of acquittal suffers from patent perversity,*
>
> *(b) whether the judgment is based on misreading/omission to consider the material evidence on record,*
>
> *(c) an order of acquittal is to be interfered with only when there are "compelling and substantial reasons" for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference.'*
>
> *(d) 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,*
>
> *(e) 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

(f) 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."

14. Thus, as observed by the Hon'ble Supreme Court in catena of decisions, while dealing with the judgment of acquittal, unless reasoning by the learned trial Court is found to be perverse, the acquittal cannot be upset. It is further observed that High Court's interference in such appeal in somewhat circumscribed and if the view taken by the learned Sessions Court is possible on the evidence, the High Court should stay its hands and not interfere in the matter in the belief that if it had been the trial Court, it might have taken a different view.

15. In light of the above legal position and for the reasons recorded in the foregoing paragraphs, the present appeal fails and is accordingly dismissed.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

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Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: MANISHKUMAR JYOTINDRA SOMPURA(HC00189), Principal Pvt. Secretary, at High Court of Gujarat on 30/10/2026 15:22:17