

IN THE HIGH COURT OF JUDICATURE AT PATNA
GOVT. APPEAL (DB) No.27 of 1998

State of Bihar

... .. Appellant/s

Versus

1. Harinandan Singh S/o Late Laxman Singh R/o vill - Barat, P.S.- Sitamarhi (Narhat), Distt.- Nawada
2. Awadh Singh S/o Late Laxman Singh R/o vill - Barat, P.S.- Sitamarhi (Narhat), Distt.- Nawada
3. Rajo Singh S/o Late Laxman Singh R/o vill - Barat, P.S.- Sitamarhi (Narhat), Distt.- Nawada
4. Kapil Singh S/o Late Mani Singh R/o vill - Barat, P.S.- Sitamarhi (Narhat), Distt.- Nawada
5. Gauri Singh S/o Late Jagdish Singh R/o vill - Barat, P.S.- Sitamarhi (Narhat), Distt.- Nawada
6. Tunna Singh S/o Late Muni Singh R/o vill - Barat, P.S.- Sitamarhi (Narhat), Distt.- Nawada
7. Gore Lal Singh S/o Kapil Singh R/o vill - Barat, P.S.- Sitamarhi (Narhat), Distt.- Nawada
8. Lalla Singh S/o Harinandan Singh R/o vill - Barat, P.S.- Sitamarhi (Narhat), Distt.- Nawada
9. Karu Singh S/o Hari Nandan Singh R/o vill - Barat, P.S.- Sitamarhi (Narhat), Distt.- Nawada
10. Arbind Singh S/o Awadh Singh R/o vill - Barat, P.S.- Sitamarhi (Narhat), Distt.- Nawada
11. Putu Kumar S/o Awadh Singh R/o vill - Barat, P.S.- Sitamarhi (Narhat), Distt.- Nawada
12. Phutani Kumar S/o Awadh Singh R/o vill - Barat, P.S.- Sitamarhi (Narhat), Distt.- Nawada
13. Babloo Kumar NA R/o vill - Barat, P.S.- Sitamarhi (Narhat), Distt.- Nawadah

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Abhimanyu Sharma, APP
For the Respondent/s : Mr. Arvind Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT



(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

Date : 07-05-2025

The State has preferred the present appeal under Section 378(1) and (3) of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') against the judgment dated 01.12.1997 passed by the court of learned 1st Addl. Sessions Judge, Nawada in Sessions Trial No. 364 of 1994/43 of 1994, whereby the learned Trial Court has acquitted all the 13 accused persons, i.e. Respondent Nos. 1 to 13, of all the charges levelled against them.

2. Prosecution case, as per the fardbeyan dated 17.05.1994 given by Santosh Kumar, son of deceased Ramadhin Singh, is that in the intervening night of 16.05.1994/17.05.1994 at about 12:00 he was sleeping inside the boring whereas his father Ramadhin Singh and uncle Bipin Singh were sleeping outside the boring which is about 500 yards east of his village. He heard the alarm raised by his father and uncle. When he came out from the boring, he saw accused Harinandan Singh, Kapil Singh, Lala Singh, Bablu Kumar having garasa, Awadh Singh, Tuna Singh having saif, Rajo Singh, Karu Singh and Arvind Singh having khanti, Gauri Singh, Putul Singh and Futani Singh having lathi and Gorelal Singh having knife in their hands, came and began to



assault his father and uncle while both of them were sleeping. Having seen this, to save himself, he fled away to nearby boring, where Mithilesh Singh and Naresh Singh were sleeping. He briefed them the incident and thereafter all of them began to raise hulla on which several villagers came there running and accused persons fled away. With several villagers who had gathered, he again went to his boring and saw head of his father injured, with profuse bleeding. His uncle Bipin Singh was also injured having injury in his head. With the help of the villagers he brought his father and uncle to Sadar Hospital, Nawada for treatment, but his father succumbed to the injury on way to hospital. His uncle was admitted in the hospital in unconscious condition and was getting treatment. It is also alleged that accused persons also committed theft of a motor of the boring. The motive behind the occurrence is said to be the old enmity on the issue of irrigation in the last Aashin month, for which there was case and counter case for the alleged murder of Umakant Singh, son of accused Harinandan Singh, by the prosecution party.

3. After filing of the F.I.R., the investigating agency carried out the investigation and, during the course of investigation, the Investigating Officer recorded the statement



of the witnesses and collected the relevant documents and thereafter filed the charge-sheet against the accused. As the case was exclusively triable by the Court of Sessions, the case was committed to the Court of Sessions where it was registered as Sessions Trial No. 364 of 1994/43 of 1994.

4. Before the Trial Court, prosecution examined eleven witnesses, namely P.W. 1 Shrikant Singh, P.W. 2 Santosh Kumar, P.W. 3 Mithilesh Singh, P.W. 4 Naresh Singh, P.W. 5 Vipin Kumar @ Vigan Singh, P.W. 6 Dr. Bipul Kumar, P.W. 7 Arvind Kumar, P.W. 8 Girish Kumar Sinha, P.W. 9 Guro Prasad Yadav, P.W. 10 Hansnath Chaubey and P.W. 11 Md. Islam. Defence has also examined one witness, namely Chitranjan Kumar.

5. Heard Mr. Abhimanyu Sharma, learned A.P.P. for the appellant State and Mr. Arvind Kumar, learned counsel for the respondents.

6. Learned A.P.P. Mr. Abhimanyu Sharma would mainly submit that there are three prosecution-witnesses who have supported the case of the prosecution, including the injured eye-witness. It is also submitted that the medical evidence supports the version given by the eye-witnesses, despite which the trial court has acquitted the respondent



accused. It is further submitted that the presence of the informant, who is son of the deceased, was natural at the place of occurrence. Thus, when the said witness has supported the case of the prosecution, the trial court ought to have convicted the respondent/accused. It is also submitted that the trial court has wrongly discarded the deposition given by the injured eye-witness. Learned A.P.P., therefore, urged that the impugned judgment and order be quashed and set aside and thereby the respondent/accused be convicted for committing the alleged offence.

7. On the other hand, learned counsel appearing for the respondent/accused has opposed the present appeal. It is submitted that two of the prosecution-witnesses, who are independent witnesses, have not supported the case of the prosecution and they have turned hostile. It is also contended that the other three so-called eye-witnesses are near relatives of the deceased and, therefore, the deposition given by the said witnesses is required to be scrutinized closely. There are major contradictions, inconsistencies and improvement in the deposition of prosecution-witnesses and, therefore, the trial court has rightly discarded the version given by the so-called eye-witnesses. Learned counsel further submits that even



medical evidence does not support the case of the so-called eye-witnesses. Learned counsel thereafter contended that even the Investigating Officer had neither seized any blood stained soil nor the cot, mattress or other blood stained clothes from the place of occurrence. It is also contended that the incident took place at 12:00 hours at night and it was a dark night. The prosecution has also failed to prove that there was a bulb/electricity available at the place of occurrence. Learned counsel referred the deposition given by D.W. 1, Chitranjan, an officer of the concerned Electricity Board in support of the said submission. It is, therefore, contended that in absence of light at the place of occurrence, it is difficult for the so-called eye-witnesses to identify the assailants. Learned counsel, therefore, urged that the trial court has not committed any error while passing the impugned judgment and order of acquittal in favour of the respondent/accused as the prosecution has failed to prove the case against the respondent/accused beyond reasonable doubt. Learned counsel lastly contended that the present is an acquittal appeal filed by the State and the scope of interference in the acquittal appeal is very limited. Learned counsel, therefore, urged that the present appeal may not be entertained.



8. We have considered the submissions canvassed by the learned counsels for the parties. We have also perused the evidence of prosecution witnesses and also perused the documentary evidence exhibited.

9. At this stage, we would like to appreciate the relevant extract of entire evidence led by the prosecution as well as defence before the Trial Court.

10. P.W. 1 Shrikant Singh has stated in his examination-in-chief that the incident took place at 12:00 in the night of 16.07.1994. At that time, he was present at the Cabin of Kedar Singh and was irrigating his *Moong* crop. He saw that all the 13 accused persons named in the F.I.R. came variously armed whom he identified in the light of electric bulb. They were coming from the eastern side. Accused Harinandan Singh, Kapil Singh and Lal Singh were having Garasa in their hands, Awadh Singh and Tunna Singh were armed with *Saip*, Rajo Singh, Arvind Singh and Karu Singh were having *Khanti* in their hands, Futani Kumar and Bablu Kumar were wielding *lathi*, Gore Lal was having a knife and others were armed with *lathi*. Thereafter he saw Ramadhin Singh and Vijan Singh soaked in blood. Both of them, who were taken to hospital, were unconscious. Vijan Singh



recovered whereas Ramadhin Singh succumbed to the injuries. He has identified accused Harinandan Singh, present in dock and has claimed to identify others.

10.1. In his cross-examination, he has stated that he is an accused in the case lodged by Harinandan Singh for murder of his son. Besides him, Ramadhin Singh (deceased), Ram Bilas Singh, Vigan @ Vipin Singh, Munak Singh, Baleshwar Singh, Rajo Singh, Kameshwar Singh, Mantu Singh and Dablu Singh are also accused in that case. In the present case, Awadh, Lalan @ Lala and Gauri Singh are witnesses. He has further stated that he had seen the accused persons near the cabin of Kedar Singh in the light of electric bulb placed near the cabin of Kedar. He has denied the suggestion that there was no electricity in the whole area. He has stated that it was a dark night. He has denied the suggestion that accused persons had not assaulted Ramadhin Singh and Vigan Singh rather their own men had assaulted them and accused persons were falsely implicated in the present case due to the previous enmity. He has further denied the suggestion that he had given false evidence even regarding identification of the accused persons.

11. P.W. 2 Santosh Kumar is the informant. He has deposed in his examination-in-chief that the incident took



place two years ago at 12:00 in the night. He was sleeping inside the Motor Cabin which is situated 200-250 yards east from the village. His father Ramadhin Singh and uncle Vipin Singh were sleeping at that Cabin. An electric bulb was on outside the cabin. On alarm raised by Vipin Singh, he got up. He saw that all the 13 named accused came there variously armed, as mentioned in the F.I.R. He came out of the cabin and went to the cabin of Naresh Singh. Mithilesh Singh was present there. Naresh Singh and Mistry Singh were also present there. He informed them that the accused persons were assaulting his father and uncle. All the three raised alarm upon which a large number of villagers gathered at the place. He again went to the cabin and saw his father and uncle in injured condition. They were bleeding. He took both the injured to Nawada Hospital during which his father breathed his last and his uncle was unconscious.

11.1. In his cross-examination he has stated that prior to the present case, accused Hari Nandan Singh had lodged a case for murder of his son in which his father was an accused. He has further stated that a bulb was hanging in the holder outside the cabin on the western wall. Accused were assaulting his father and uncle on the cot itself. When he came



out, no one assaulted him. He has further refused to examine Naresh Singh and Mithilesh Singh as witnesses as they were in connivance with the accused persons. Mithilesh Singh is also known as Mistry Singh. His uncle Vipin had received 8 injuries, all caused by sharp weapons. When he returned to the cabin, he saw accused persons fleeing away. The clothes which Ramadhin Singh and Vipin Singh were wearing were blood stained. The same were handed over to police. He has further stated that there was no witness to the assailants besides him. He has refused to examine the villagers as witnesses as they are in connivance with the accused side. He has denied the suggestion that he had not identified any of the assailants. He has also denied that unknown persons had assaulted his father and uncle and due to previous enmity they have been falsely implicated in this case. He has also denied the suggestion of giving false evidence.

12. P.W. 3 Mithilesh Singh and P.W. 4 Naresh Singh have not supported the prosecution case and they have been declared hostile.

13. P.W. 5 Vipin Kumar @ Vigan Singh is the injured eye-witness. He has stated that the incident took place two years ago at 12:00 in the night. At that time, he was



sleeping in his cabin. At that time Harinandan Singh having *garasa*, Awadh Singh having *Saip*, Kapil Singh having *Garasa*, Lala Singh having *Garasa*, Tuna Singh having *Saif*, Gore Lal Singh having knife, Rajo Singh, Arvind and Karo having *Khanti* in their hands, Bablu Kumar having *Garasa*, Gauri Singh, Putal Singh and Futani having *lathi* came and started assaulting him and Ramadhin Singh, as a result of which he and his brother got injured. When he gained consciousness, he found himself at P.M.C.H. and came to know about the death of his brother Ramadhin Singh. He claims to identify the accused persons in the light of bulb. He has further stated that Sitamarhi Police had recorded his statement after a month when he returned from Patna after treatment.

13.1. In his cross-examination, he has stated that Harinandan Singh had lodged Narhat (Sitamarhi) P.S. Case No. 96/92 u/S-302 of I.P.C. for murder of his son Umakant Singh against him and others in which they had appeared in the Court of A.D.J. II. He has further stated that he is not aware for how many days he remained admitted in Nawada Hospital as he was unconscious. He gained his consciousness a day after he was admitted in P.M.C.H. He remained under



treatment there for a month. Till he was under treatment at P.M.C.H., no police personnel from Pirbahore P.S. had come to record his statement. He was cornered in sleeping condition. When he got up, he was indiscriminately assaulted with *Saif*, *Garasa* and *Khanti* due to which he became unconscious. He has denied the suggestion that neither he saw nor identified the accused as he was assaulted in sleeping condition. He has also denied no incident, as stated by him, had taken place and due to the murder case lodged against him he had falsely implicated the accused persons.

14. P.W. 6 Dr. Bipul Kumar has deposed that on 17.05.1994 he was posted as CAS in Sadar Hospital, Nawada. On that day he conducted *post mortem* on the dead body of Ramadhin Singh, aged about 40 years, and found the following *ante mortem* injuries. Body was identified by Haribans Narain Singh, Hawaldar.

(I) Incised wound 2"x1/2"x Clavial Cavity deep over left frontal region of face just above lateral aspect of left eye-brow.

(ii) Incised wound 1.5"x1/2"x cavity deep over temporal parietal region of scalp.

(iii) Incised wound 2.5"x1/2"x cavity deep over right frontal region of scalp. Brain metal leaking from the bone.



(iv) Incised wound 1"x1/2"xscalp deep over left parietal region of scalp.

(v) Abrasion 1/4"x1/4" over left knee 2" below knee joint.

(vi) Abrasion 1/2"x1/4" over lateral aspect of right leg.

Injuries no. (I) to (iv) were caused by sharp cutting weapons which may be saif, garasa, khanti, whereas injuries no. (v) and (vi) were caused by hard blunt substance, which may be lathi.

On dissection:- Fracture of frontal and both parietal bones. Brain matter and meninges were contused at multiple places. Cranial cavity filled with blood clot. All other viscera found intact and pale. Stomach contains Semi digested food material. Bladder partially filled. Heart left chamber empty and right chamber full. Cause of death was shock and haemorrhage produced by above injuries particularly head injury. Time elapsed since death within two to twenty four hours. He has identified the P.M. Report to be in his pen and signature (Ext.-5). He has further stated that the injuries were sufficient to cause death.

15. P.W. 7 Dr. Arvind Kumar has deposed that on 17.05.1994 he was posted at Sadar Hospital, Nawada as Orthopaedic Surgeon. On that day at 1.30 PM he examined injured Bipin Kr. S/o Baleshwar Singh of Vill.- Barat, P.S. Sitamadhi, Nawada and found the following injuries over his body:-



(i) Lacerated wound 2.5"x2"x1" on the right side of tempo parietal region.

(ii) Lacerated wound 3/4"x1/8"x1/4" over right side of forehead.

(iii) Lacerated wound 3/4"x1/8"x1/4" middle of the forehead.

(iv) Lacerated wound 1"x1/2"x1/4" over top of Scalp.

(v) Lacerated wound 1"x1/8"x1/4" above the eyebrow of the right side.

(vi) Swelling of both eyes.

(vii) Abrasion on dorsan of head of right side 1"x1/8".

(viii) Abrasion of little and middle finger of left hand 1/2"x (illegible)

(ix) Abrasion of both knee joint 1/2"x1/4"

Age of injury was within 6 hrs. Nature: All were simple in nature and caused by hard and blunt substance such as lathi and blunt portion of Khanti.

He has identified the injury report (Ext-6) to be in his pen and signature.

16. P.W. 8 Girish Kumar Sinha has deposed that in 1994 he was posted as Incharge of Sitamarhi Police Station. He was given the charge of investigation of Narhat P.S. Case No. 40/94 from Sri G.P. Yadav and on the instruction of his senior official he submitted charge-sheet in the case. He has further stated that he had neither recorded statement of



anybody nor he had visited the place of occurrence.

17. P.W. 9 Guru Prasad Yadav has deposed that on 17.05.1994 he was posted as S.H.O. of Sitamarhi Police Station. At 11:31 p.m. he was informed by Choukidar Raj Kumar Rajbanshi that accused Harinandan Singh and others have assaulted and injured Ramadhin Singh and Vipin Singh who were sleeping in their Cabin. Ramadhin Singh succumbed to the injuries while being taken for treatment. He registered Sanha No. 252 dated 15.05.1994 and proceeded for the place of occurrence with police force. He visited the place of occurrence and seized the blood stained soil as exhibit. He recorded the re-statement of the informant and in course of recording statements of the witnesses, he recorded the statement of witness Mithilesh Singh. Lastly he recorded the statement of injured Vipin Singh @ Vigan Singh as he was admitted in P.M.C.H.

17.1. In his cross-examination, he has stated that he had not seized any cot, mattress or any other blood stained cloth. He had not seen any electric meter in the cabin of Rajo Singh and nobody had shown him any electric bulb or wire. During the course of investigation, he had not found any electric apparatus around the place of occurrence. He has not



recorded whether power was on at the time of occurrence or not. He has further stated that witness Vipin Kumar @ Vigan Singh had not stated in his statement that when he was inside the cabin, bulb was on. He had just said that accused persons cornered in sleeping condition and assaulted. Before this incident, Narhat (Sitamarhi) P.S. Case No. 96 of 1992 dated 04.11.1992 was lodged by accused Harinandan Singh against Ramadhin Singh, Vigan Singh etc. regarding the death of his son Umakant. He was the investigating officer in that case also and had filed charge-sheet. He has denied the suggestion that he had not properly conducted investigation in this case.

18. P.W. 10 Hansnath Chaubey is an attesting witness to Sanha Register of 1994, bearing Sanha No. 252 dated 18.05.1994 (Exts-X, 1/x). He has not stated anything about the occurrence.

19. P.W. 11 Md. Islam is an attesting witness. He has identified Sanha No. 252 dated 17.05.1994 (Ext-10) to be in the handwriting of literate constable Birendra Kumar Singh. In his cross-examination, he has stated that he is not aware of the contents of the Sanha.

20. DW-1 Chitranjan Kumar has stated in his examination-in-chief that he is posted Electric Sub Power



Station, Hasua since 1989. He has further stated that from 22.50 p.m. on 16.05.1994 to 01:05 a.m. on 17.05.1994 power was not supplied from Nawada to Hasua Sub Station. During that period power was also not supplied to Narhat feeder.

21. We have considered the arguments canvassed by the learned counsels appearing for the parties, re-appreciated the entire evidence led by the prosecution as well as defence and perused the trial court records and exhibits.

22. At the outset, it is pertinent to note that two independent witnesses who allegedly saw the occurrence in question, i.e. P.W. 3 and P.W. 4, have not supported the case of the prosecution and they have turned hostile. Thus, the case of the prosecution rests on three witnesses who are near relatives of the deceased. It transpires from the record that though P.W. 1 is projected as an independent witness by the prosecution, from the deposition given by the said witness, it transpires that there are major contradictions, inconsistencies and discrepancies in the prosecution story. The conduct of the said witness is also unnatural. As per the version given by P.W. 1, at about 12:00 hours at night, he was on the cabin/boring of Kedar Singh and was irrigating his *Moong* field. When he saw all together 13 accused, whose names are specifically narrated



by him, armed with Garasa, Saif, Khanti, Lathi and Knife near the said cabin. He identified them in the electric light. Thereafter, he went to Tiniya Pokhar and saw Ramadhin Singh and Vipin Singh in a pool of blood and unconscious. Thus, it appears from the said deposition that the said witness had not seen the actual occurrence and the role played by the accused in the incident in question. From his deposition, it further appears that the said witness has narrated in detail with regard to the weapons which the accused were carrying at the time of occurrence. Further, from his cross-examination, it is revealed that it was a dark night. We are, therefore, of the view that it is difficult for the said witness to see more than 13 accused, who were carrying different weapons in such dark night. At this stage, it is also relevant to note that D.W. 1, an officer from Power Sub-Station, Hansua, has specifically deposed before the Court that at the time of occurrence, power was not supplied to Nawada from Hansua Power Sub-Station.

23. P.W. 2, the informant, is the son of the deceased. From the F.I.R. filed by him itself, it is revealed that the said witness has given the names of 13 accused and the weapons which they were carrying. P.W. 2 was minor at the relevant time and, therefore, it is difficult to believe that during



dark night he had identified all the 13 accused and the different weapons which they were carrying in their hands. From the deposition of other witnesses also, it can be said that there are major contradictions and inconsistencies with regard to the version given by the said witness.

23.1. At this stage, it is relevant to note that in para-20 of his cross-examination, he has specifically admitted that he is the sole witness who had seen the occurrence in question. Thus, it appears that there is no other person who had seen the occurrence in question. However, as the informant is the son of the deceased and an interested and related witness, his deposition is required to be scrutinized carefully.

24. At this stage, we would also like to refer the deposition given by P.W. 6, the doctor who had conducted *post mortem* of the dead body of the deceased. From the deposition of the said doctor, it appears that the medical evidence does not support the version given by P.W. 2. From the deposition of the said doctor, it transpires that the time of alleged occurrence is not consistent with the report given by the doctor.

25. At this stage, the deposition given by P.W. 5, who is projected as an injured eye-witness, is also required to be examined closely. The prosecution has projected P.W. 5 as



an injured eye-witness who had also sustained injuries in the incident in question. However, the said witness has specifically stated that initially he was taken to Nawada Hospital. At that time, he was unconscious. Thereafter, he was shifted to P.M.C.H., Patna. There he regained consciousness. He remained in the said hospital for about one month. It is the specific case of the prosecution that during the said period, the I.O. did not record his statement. It is his further case that all the accused gave indiscriminate blows of Saif, Garasa and Khanti. However, at this stage, if the deposition given by P.W. 7, the doctor who had given treatment to the injured (P.W. 5) is carefully examined, it transpires that the said witness was posted at Sadar Hospital, Nawada and the said witness has specifically stated in his examination-in-chief that nature of injuries was simple and caused by hard and blunt substance, such as, lathi and blunt portion of Khanti. Thus, from the aforesaid deposition given by the doctor, it can be said that nature of injuries sustained by P.W. 5 was simple. That means, he was not unconscious, as deposed by him. It is pertinent to note at this stage that though the said witness remained in P.M.C.H., Patna for about one month, the doctor who had given treatment in the said hospital has not been examined by



the prosecution. It is further surprising that the Investigating Officer did not record the statement of the said witness for one month.

26. P.W. 9 is the Investigating Officer who had carried out the investigation. In his examination-in-chief the said witness has, though stated that he seized the blood stained soil, but the seizure-list of the same was not prepared nor the same was sent for necessary analysis to the Forensic Science Laboratory. Further, in para-13 of his cross-examination he has deposed that he did not seize the cot, mattress or other blood stained clothes etc. Further, he has admitted that he did not enquire whether there was any bulb or facility of electricity available at the place of occurrence or not. It is pertinent to note that, in the present case, there is no recovery or discovery of any weapon from any of the accused.

27. Looking to the aforesaid evidence led by the prosecution, we are of the view that the prosecution has failed to prove the case against the respondent/accused beyond reasonable doubt.

28. At this stage, we would like to refer the decision rendered by the Hon'ble Supreme Court in the case of **Chandrappa and Ors. Vs. State of Karnataka**, reported in



(2007) 4 SCC 415 in which the Hon'ble Supreme Court has laid down the principle regarding the powers of the Appellate Court while dealing with an appeal against an order of acquittal. In Para-42 of the said decision, the Hon'ble Supreme Court has observed as under:-

“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:

(1) An appellate court has full power to review, reappraise 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 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.”

29. In the case of **Nikhil Chandra Mondal Vs. State of West Bengal**, reported in **(2023) 6 SCC 605**, the Hon’ble Supreme Court has observed, in Para-22, as under:-

“22. Recently, a three-Judge Bench of this Court in Rajesh Prasad v. State of Bihar [Rajesh Prasad v. State of Bihar, (2022) 3 SCC 471 : (2022) 2 SCC (Cri) 31] has considered various earlier judgments on the scope of interference in a case of acquittal. It held that there is double presumption in favour of the accused. Firstly, the presumption of innocence that 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 court. It has been further held that 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.”

30. Thus, from the aforesaid decisions rendered



by the Hon'ble Supreme Court, it can be said that Appellant Court 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. Further, if two reasonable conclusions are possible on the basis of the evidence on record, the Appellate Court should not disturb the finding recorded by the Trial Court.

31. Keeping in view the aforesaid decision rendered by the Hon'ble Supreme Court, if the facts and circumstances of the present case and the evidence led by the prosecution is carefully examined, we are of the view that interference in the impugned judgment and order rendered by the trial court is not required in the present acquittal appeal filed by the appellant State.

32. We have also gone through the reasoning recorded by the trial court while passing the impugned judgment and order and we are of the view that no error is



committed by the trial court and, therefore also, no interference is required in the present appeal.

33. Accordingly, the appeal stands dismissed.

(Vipul M. Pancholi, J)

(Sunil Dutta Mishra, J)

K.C.Jha/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	15.05.2025
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