

THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.749 of 2019

Arising Out of PS. Case No.-129 Year-2017 Thana- SURSAND District- Sitamarhi

1. Soni Kumari, D/O Ranjit Kumar Singh @ Ranjit Singh, R/O Village- Malahi, P.S.- Sursand, District- Sitamarhi. Under The Guardianship Of Her Father Ranjit Kumar Singh @ Ranjit Singh
2. Ranjit Kumar Singh @ Ranjit Singh, S/o Late Shankar Singh, R/o village- Malahi, P.S.- Sursand, Distt.- Sitamarhi

... .. Appellant/s

Versus

1. The State of Bihar
2. Sanjiv Kumar Singh, S/o Vinay Singh, R/o village- Malahi, P.S.- Sursand, District- Sitamarhi

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shyam Nandan Thakur, Advocate
For the State : Mr. Abhimanyu Sharma, APP
For the Respondent No.2: Mr. Shashank Shekhar, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE JITENDRA KUMAR)

Date : 03-09-2024

The present appeal has been preferred by the victim/informant and her father impugning the judgment dated 07.03.2019 passed by the learned Additional Sessions Judge-Ist-cum-Special Judge (POCSO Act), Sitamarhi in Trial No.25 of 2017, arising out of Sursand P.S. Case No. 129 of 2017,



whereby respondent No. 2 viz., Sanjiv Kumar Singh has been acquitted of charges framed under Sections 376 and 506 of the Indian Penal Code and Sections 4 and 12 of the POCSO Act.

2. The prosecution case as emerging from the written report of the victim/informant addressed to Officer-in-charge, Sursand Police Station, District-Sitamarhi is that the victim is aged about 14 years. On 12.05.2017 her father had gone to Sursand market and mother had gone to Anganwari Centre and she was alone at home. Her house is situated on the boundary of the village. In the meantime, at 12 O'clock her neighbour Sanjiv Kumar Singh, who is respondent no.2 herein, entered into her courtyard and forcibly took her in room. When she raised voice, her mouth was closed by him by putting his hand and he started committing rape upon her. Despite efforts, she could not raise voice because her mouth was shut up by the respondent no.2 by putting his hand on her mouth. In the meantime, incidentally her father came and after hearing her crying, he entered into the house. Then he started fleeing away. But the victim and her father raised hulla and on their hulla, many people assembled there. Respondent no.2 made unsuccessful effort to flee away. He was apprehended by the people and taken to police station.

3. On the basis of the written report, Sursand P.S. Case



No. 129 of 2017 was registered against the sole accused, namely, Sanjiv Kumar Singh, for the offence punishable under Section 376 of the Indian Penal Code and Sections 4 and 12 of the POCSO Act, 2012.

4. After investigation charge-sheet bearing No. 148 of 2017 dated 31.07.2017 was submitted against the sole accused. Thereafter, cognizance of the offence was taken and charges under Sections 376 and 506 of the Indian Penal Code and Sections 4 and 12 of the POCSO Act were framed against the Respondent no.2, which he pleaded not guilty and claimed to be tried.

5. During trial, the following six witnesses were examined on behalf of the prosecution:

- (i) **P.W.-1**- Mother of the victim
- (ii) **P.W.-2**- Father of the victim
- (iii) **P.W.-3**- Victim/informant
- (iv) **P.W.-4**- Dr. Deepa Singh
- (v) **P.W.-5**- First I.O. of the case
- (vi) **P.W.-6**- Shyam Bihari Upadhyay, I.O.

6. The prosecution brought on record the following documentary evidences:

- (i) **Ext.-1 & 1/2**- Signature of Ranjit Singh, victim and Ganesh Singh respectively on the seizure list
- (ii) **Ext.-2**- Signature of the victim on the written report
- (iii) **Ext.-3**- Original Registration number of the victim issued by Bihar School Examination Board, Patna
- (iv) **Ext.-4**- Original date of birth certificate of the victim
- (v) **Ext.-5**- Original Admit Card of the victim issued by



Bihar School Examination Board, Patna

(vi) **Ext.-6 to 6/1-** Signatures of Dr. Deepa Singh and Dr. Sangita Jha on medical report

(vii) **Ext.-7-** Report of Medical Board

(viii) **Ext.-8-** Endorsement on written application

(ix) **Ext.-9-** Seizure list

(x) **Ext.-10-** Arrest Memo

(xi) **Ext.-11-** Charge-sheet

7. After closure of the prosecution evidence, the sole accused examined under Section 313 Cr.PC, during which he was confronted with incriminating circumstances which had come in the prosecution evidence, so as to afford him opportunity to explain those circumstances. During the examination, he admitted that he had heard the evidence of the prosecution witnesses against him, but he claimed to be innocent and stated that when he was on way to his home, Ranjeet Singh, Ganesh Singh and his wife Mamta Devi prohibited him from going on that pathway and started abusing and assaulting him and got him seated at their home and informed the police and police recorded the statement of the informant and took all of them to police station and thereafter the police replaced the first statement given by the informant by the present written statement of the informant and he was sent to jail.

8. The respondent no.2 has also examined following four witnesses in his defence:



- (i) **D.W.1-** Nageshwar Pd. Singh
- (ii) **D.W.2-** Braj Kishore Singh
- (iii) **D.W. 3-** Birendra Singh
- (iv) **D.W. 4-** Rajeev Kumar Singh

9. The following documents have been exhibited on behalf of respondent no.2 in his defence:-

- (i) **Ext.-A** is the written application
- (ii) **Ext.-B** is the C.C. of cognizance order dated 08.09.2017 passed in Sursand P.S. Case No. 130 of 2017
- (iii) **Ext.-C** is the C.C. of formal F.I.R.
- (iv) **Ext.-D** is the C.C. of Charge-sheet
- (v) **Ext.-E** is the original written application of Sursand P.S. Case No. 130 of 2017

10. Learned Trial Court, after appreciating the evidence on record and considering the submissions of the parties, passed the impugned judgment whereby the respondent No. 2 has been acquitted of the charge, finding that prosecution has failed to prove its case against the respondent no.2 beyond all reasonable doubts. The Trial Court has found that the case of the prosecution is not supported by the medical evidence and there are material contradictions in the statements of the prosecution witnesses, entitling the accused to the benefit of doubts.

11. We have heard learned counsel for the appellants, learned APP for the State and learned counsel for the respondent no.2.

12. Learned counsel for the appellants submits that learned Trial Court has failed to properly appreciate the



evidence on record and erroneously acquitted the respondent no.2 without applying his judicial mind. There is sufficient evidence on record to convict the respondent no.2. Hence, the impugned judgment is not sustainable in the eye of law.

13. To substantiate his claim learned counsel for the appellants submits that all the prosecution witnesses including the victim have fully supported the prosecution case against the respondent no.2. There is no material contradictions in the statements of any prosecution witness. Even the defence witnesses could not create any reasonable doubt in the prosecution case even by preponderance of probability. The prosecution has proved its case against the respondent no.2 beyond all reasonable doubts despite defects in investigation.

14. Learned APP for the State and learned counsel for the respondent no. 2 defended the impugned judgment, submitting that the prosecution could not prove the case beyond reasonable doubts. Hence, there is no illegality or impropriety in the impugned judgment whereby the respondent no.2 has been acquitted. They have also submitted that the respondent no.2 was falsely implicated by the appellants as a counter blast to Sursand P.S. Case No. 130 of 2017 lodged by the respondent no.2 against the parents of the informant for offence punishable



under Sections 341, 323, 325, 354, 379 and 504 read with Section 34 of the Indian Penal Code in which charge-sheet has been submitted against them and cognizance of the offence has been also taken. They have also submitted that there are material contradictions in the statements of not only the victim and his family members, but even in the statements of the I.O. They have further submitted that the prosecution case is not supported by the medical evidence. Nor is any forensic evidence on record in support of the prosecution despite seizure of the clothes of the alleged victim which were not sent by the police to the Forensic Science Laboratory for their examination. Hence, respondent no.2 has been rightly acquitted of the charge framed against him.

15. They have further submitted that in case of appeal against acquittal, the principles required to be applied by the Appellate Court are somewhat different from those which are applied in case of appeal against conviction. In case of acquittal, Appellate Court is required to interfere only when the view taken by learned Trial Court is not reasonable one as per the evidence on record. Even if two views are possible and learned Trial Court has taken one view, the Appellate Court is not required to supplant the view of the learned Trial Court by



another view. Moreover, the view taken by learned Trial Court is based on proper appreciation of law and facts requiring no interference by the Appellate Court.

16. We also agree with the submission of learned APP for the State and learned counsel for the respondent no.2 that in case of appeal against acquittal, the principles required to be applied by the Appellate Court are drastically different from those which are applied in case of appeal against conviction.

17. In **Harbans Singh v. State of Punjab, 1961 SCC OnLine SC 40, Hon'ble Supreme Court** has held that a court must examine not only questions of law and fact in all their aspects but must also closely and carefully examine the reasons which impelled the lower courts to acquit the accused and should interfere only if satisfied, after such examination that the conclusion reached by the lower court that the guilt of the person has not been proved is unreasonable.

18. In **Chandrappa Vs. State of Karnataka, (2007) 4 SCC 415, Hon'ble Supreme Court** after referring to several authorities has held that an appellate court, must bear in mind that in case of acquittal, the presumption of his innocence is reinforced, reaffirmed and strengthened by the trial court and 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.

19. In Murugesan Vs. State, (2012) 10 SCC 383, Hon'ble Supreme Court has held that so long as the view taken by the Trial Court is not impossible to be arrived at and reasons therefore, relatable to the evidence and materials on record, are disclosed any further scrutiny in exercise of the power under Section 378 Cr.PC was not called for.

20. In H.D. Sundara v. State of Karnataka, (2023) 9 SCC 581, Hon'ble Supreme Court summarized the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 of CrPC as follows:

“8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to reappraise the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after reappraising 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;

8.4. 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

8.5. 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.”

(Emphasis Supplied)

21. In Babu Sahebagouda Rudragoudar Vs. State of Karnataka, 2024 SCC Online SC 561, Hon’ble Supreme Court, after referring to relevant precedents, has observed as follows:

“39. Thus, it is beyond the pale of doubt that the scope of interference by an appellate Court for reversing the judgment of acquittal recorded by the trial Court in favour of the accused has to be exercised within the four corners of the **following principles:**

(a) That the judgment of acquittal suffers from patent perversity;

(b) That the same is based on a misreading/omission to consider material evidence on record;

(c) That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

40. The appellate Court, in order to interfere with the judgment of acquittal would have to record pertinent findings on the above factors if it is inclined to reverse the judgment of acquittal rendered by the trial Court.”

(Emphasis Supplied)

22. Coming back to the case on hand, we find that there was charge framed under Sections 4 and 12 of the POCSO Act also. Hence, it is pertinent to note that despite statutory provisions of Sections 29 and 30 of the POCSO Act, the prosecution is not absolved of its burden to prove that the alleged victim is a child i.e. below 18 years of age and he/she has been subjected to sexual assault by the accused and such



foundational facts have to be proved by the prosecution beyond reasonable doubts and once the presumption is raised against the accused, the accused can rebut such presumption either by cross-examination of the prosecution witnesses or by leading evidence in his/her defence, on the touchstone of preponderance of probability. The presumptions are bats in law. They fly in a twilight, but vanish in the light of facts. In this context, one may refer to the following judicial precedents:

- (i) **Islam Mian Hajam Vs. State of Bihar**,
(2024 SCC OnLine Pat 4354)
- (ii) **Babu Sahebagouda R Vs. State of Karnataka**,
2024 SCC Online SC 561
- (iii) **N. D. Baraiye Vs. State of Maharashtra 2018**,
SCC Online Bom 1281,
- (iv) **Joy V. S. Vs. State of Kerala**,
(2019) SCC Online Ker 783
- (v) **Sahid Hossain Biswas Vs. State of West Bengal**,
2017 SCC Online Cal 5023
- (vi) **Latu Das Vs. State of Assam**,
2019 SCC OnLine Gau 5947

23. Now the **first and foremost question** is whether the prosecution has proved that the alleged victim was child i.e. below 18 years of age on the date of occurrence in terms of Section 2(1)(d) of the POCSO Act. It is one of the foundational facts to be proved by the prosecution, as it is a prerequisite for application of the POCSO Act against the Appellant.

24. As per the statutory provision of Section 94 of J.J. Act, 2015 and the binding judicial precedents, the age of the



victim is determined on the basis of birth certificate of the school or matriculation or equivalent certificate, if available. In other words, if the victim is a student of school, the aforesaid certificates have precedence over other mode of proof regarding the age. In the absence of such certificate, birth certificate given by Municipal Authorities or Panchayat is required to be considered for determination of the age of the victim. In the absence of the aforesaid certificates, the age of the victim is required to be determined by ossification test or any other latest medical test. Any other proof is impliedly excluded from consideration for age determination of the victim. Here the following judicial precedents may be referred to;

- (i) **Jarnail Singh Vs. State of Haryana,**
(2013) 7 SCC 263;
- (ii) **P. Yuvaprakash Vs. State,**
2023 SCC OnLine SC 846.

25. Now coming to the prosecution evidence on record, we find that the victim was a student of Sursand Sahi School and the prosecution has brought on record Admit Card and Registration Certificate of the victim issued by the Bihar School Examination Board. Even Birth Certificate of the victim issued by Government of Bihar has been brought on record by the prosecution. As per these documentary proofs, the date of birth of the victim is 5th August, 2002. The date of occurrence is



12.05.2017. As such, on the date of occurrence, the victim is found to be 14 years, 9 months and 7 days old i.e. below 18 years of age. As such, the victim is a child as per the provisions of POCSO Act and POCSO Act is applicable against the accused/respondent no.2.

26. Now question is whether the prosecution has proved the charge of rape against the respondent no.2 beyond reasonable doubts.

27. Now, from perusal of the evidence on record, we find that the victim has been examined as **P.W.-3**. In her **examination-in-chief**, besides reiterating her statement as made in the written report, she has developed the case by deposing that the accused/respondent no. 2 had also threatened her not to raise voice, failing which she would be killed. In her **cross-examination**, she has deposed that she was taken by the accused/respondent no. 2 into her room by dragging. However, there is no such statement in her written statement given to the police. She had simply stated in her written statement that she was forcibly taken to the room. She has also deposed that after the occurrence when the police came, the police had recorded her statement and she had put her signature on the statement and even her father had signed on her written statement. She has also



deposed that the room in which she was taken by the accused had a door and after taking her into the room, the door was shut. Her father had entered into the room alone and silently and the accused was arrested in the room. She has denied the suggestion that at the time of medical examination, she was carrying pregnancy of 11 weeks and 4- 5 days and there is no question of abortion of the pregnancy. She has also denied the suggestion that she has falsely implicated the respondent no.2 on account of criminal case lodged by the respondent no.2 against her parents.

28. Father of the victim has been examined as **P.W.-2**. In his **examination-in-chief**, he has deposed that at 11 O'clock on 12.05.2017 he had gone to Sursand market and when he came back home, he heard sound of crying. He broke the door open of his house and saw that the respondent no.2 was committing rape upon his daughter. Thereafter, the respondent no.2 tried to flee away, but he apprehended him with the help of the villagers and informed the police by telephone. Police came at 1:30 O'clock and took him, his wife and the victim/daughter along with respondent no.2 to the police station. The police took written statement of the victim/daughter and the content of the same was read over to her. The red bed-sheet and Shameez of the victim were seized by the police. In his **cross-examination**, he has



deposed that the respondent no.2 is his cousin. His wife had reached home five minutes after his arrival. He has further deposed that when he entered into the room, he found that the victim was lying on the chowki (wooden cot) and respondent no.2 was also lying on her pressing her mouth. He has also deposed that there was no love affair of his daughter with anybody. He came to know that during medical examination, she was found to be pregnant but her daughter had given application for re-medical test. He also denied the suggestion that after information of the pregnancy of his daughter, he has got her pregnancy aborted. He has also deposed that the occurrence taken place on 12.05.2017 the respondent no.2 had lodged a criminal case against him alleging assault and theft to have been committed by him. He has also deposed in his cross-examination that at the police station, the police has got the written statement from his daughter/victim.

29. We find that the statements of this witness, who is father of the victim, is somewhat contradictory with those of the victim/daughter. The victim has stated in her testimony that father had entered into her room silently without making any noise, whereas, this witness has deposed that he had broken the door open and then entered into the room.



30. Mother of the victim has been examined as **P.W.-1**. However, she is not an eye-witness to the occurrence. In her **cross-examination**, she has deposed that her daughter is a student of Class-Xth of Sursand Shahi School. She has also deposed that after finding by the doctor regarding pregnancy of her daughter, she has never filed any application against such finding.

31. Dr. Deepa Singh, who had conducted the medico-legal examination of the victim on 13.05.2017 has been examined as **P.W.-4**. She has testified that she had found no external injury either on the body or on the private parts of the victim. She also found that the hymen was ruptured, tags were present and an old tear was present. No foreign body or any abnormal secretion was found in or around the private parts of the victim. No spermatozoa was found. The informant was also found to be pregnant of eleven weeks and five days. The witness has opined that it was very difficult to say whether rape was committed. In her **cross-examination**, she has opined that if rape is committed forcibly, injury may be caused on the private parts of the victim Here, the testimony of the victim that she was dragged by the accused/respondent no. 2 while taking into the room, is also not supported by the finding of this witness/doctor



because there is no finding of any external injury on the person of the victim.

32. The first Investigating Officer **Ram Swarth Paswan** has been examined as **P.W.-5**. In his **examination-in-chief**, he has deposed that the place of occurrence, as per the statement of the victim, is a room in the house of the victim. However, the room has no door and there is door to the east-north of the house. There are four rooms in the house and the room where occurrence had taken place is situated to the north of the house and there is courtyard to the north of the house of the victim. The victim also presented white leggings and black white bed-sheet to the police. The respondent no. 2/accused was arrested on 12.05.2017 from the house of the victim. In his **cross-examination**, he has deposed that there is mention of informatory petition Sanha bearing no. 214. However, the content of the same is not mentioned in the case diary. Even the time of this informatory petition is not mentioned in the case diary and time of arrival at the place of occurrence is also not mentioned in the case diary. The statement of the victim was recorded at the place of occurrence. However, the FIR was not lodged on the basis of the statement of the victim. The victim had put her signature on the statement as recorded by him. This



statement was recorded at 7.00 PM. At that time, besides victim, the respondent no. 2/accused, mother of the victim, Amresh Kumar Singh, Shyam Singh, Qaium Ansari and others were also present. The seizure list was prepared at 16:30 O' Clock on 12.05.2017 at the place of occurrence. He has again deposed that on telephonic information, he visited the place of occurrence and arrested the accused and prepared the seizure list. Before taking over the charge of investigation, he had visited the place of occurrence, recorded the statement and arrested the accused. He has also deposed that the clothes seized by the police from the victim was not sent for forensic test. The accused/respondent no. 2 was arrested from the room of the victim on 12.05.2017 at 16:15 O' clock and at the time of arrest, there was injury on the body of the accused. He was medically examined, but medical report was not obtained by him nor had he seized any clothes of the accused. The victim had not given any written statement at Police Station. The FIR has been lodged on self written statement of the victim which was written by her at her home and that written statement was given by the victim in the room of her house in between 3:00 to 4:00 O' clock on 12.05.2017. This written statement has been exhibited as **Ext. 2**. He has deposed that the victim had not stated that the accused had taken to her



room holding her hand and she was put down on the bed and thereafter, he committed rape after removing her clothes, either in the written statement or in her restatement. The victim has also not stated in the written statement that the accused had stated to her that if she raised voice, she would be killed. He has also admitted that the accused/respondent no. 2 had also lodged Sursand P.S. Case No. 130 of 2017 against the parents and uncle of the informant and he himself is the Investigating Officer of that case. He has denied the suggestion that the statement of the victim as recorded at the place of occurrence, the victim has not stated anything about rape by the accused. He also denied the suggestion that in her first statement, the informant had stated to him that altercation had taken place on account of a pathway leading to assault to the accused.

33. We find that there is contradiction between the statement of the IO and the statement of the victim regarding door in the room where the occurrence had taken place. The victim has stated that in the room there was door but as per this witness, there was no door in the room. There is also contradiction regarding arrest of the Accused/Respondent No.2. As per the victim and her father, the accused was apprehended with the help of co-villagers and taken to the police station



whereas this witness (IO) has deposed that on information he visited the place of occurrence and arrested the Accused. There is also contradiction in regard to lodging of the FIR. As per the father of the victim, the written statement was given to the police by the victim at the police station, whereas this witness (I.O.) has deposed that the written statement was given to him at the place of occurrence. We also find that the written report was written by the victim herself. But find that the signature of the informant and the content of the written report are in different handwriting showing that the written report was written by someone other than the informant and the informant had only put her signature on that.

34. The second **Investigating Officer**, Shyam Bihari Upadhyay has been examined as **P.W.-6**. He has submitted the charge-sheet against the Accused/Respondent No.2. In his **cross-examination**, he has deposed that the seized clothes were not sent to FSL for forensic examination.

35. **Nageshwar Prasad Singh** has been examined as the **Defence Witness No.1**. He is a co-villager of the Informant and the Accused and he knows both of them. In his **examination-in-chief**, he has deposed that when the police came to the house of the Informant, the informant had given statement



to the police that there was altercation between the parents of the victim and the Accused/Respondent No.2. However, in his **cross-examination** he has deposed that he is not aware of the content of the FIR lodged at the police station. He is not aware whether there is protest against the replacement of the first statement given by the Informant to the police. He has denied the suggestion that no statement of the victim was recorded in his presence and he has deposed falsely to protect the Accused/Respondent No.2.

36. Braj Kishore has been examined as **Defence Witness No.2**. He has also deposed that in the first statement given by the Informant to the police, the Informant has deposed that there was altercation between her parents and the Accused. But as per information given by the chowkidar, the first statement had been replaced by another statement of the informant. In his **cross-examination**, he has deposed that he had not seen tearing of the first statement of the Informant by the police. He is also not aware whether any protest has been lodged by the Accused against the replacement of the first statement of the Informant.

37. Birendra Singh has been examined as **Defence Witness No.3**. In his **examination-in-chief**, he has deposed that



at 12 O'clock on 12.05.2017, there was an altercation between the Accused and the parents of the Informant in regard to pathway. He has denied the suggestion that he has deposed falsely to protect the Accused on account of being his agnates.

38. Rajiv Kumar Singh, who has been examined as **Defence Witness No.4**, has proved the FIR lodged by the Accused against the parents of the Informant, which is **Ext. D**.

39. From the perusal of the aforesaid evidence, we clearly find that the victim and her parents have supported the prosecution case against the accused/respondent no. 2. However, we find that the prosecution case is not supported by medical evidence, nor is any forensic evidence on record in support of the allegation leveled against the accused/respondent no. 2. As per the medical evidence, there was no external injury found on the person of the victim which could have been caused due to dragging of the victim by the accused/respondent no. 2 while taking her into the room, nor is any medical finding in support of the allegation of rape. Neither any injury nor any spermatozoa was found in the private part of the victim. Moreover, there are material contradictions in the statements of the prosecution witnesses. As per the victim, there was a door in the room where occurrence had taken place, whereas as per the I.O., there was no



door in the room. There are also contradictory statements regarding how father entered into the room where occurrence had taken place. As per the testimony of the father of the victim, he first broke the door open and entered into the room, whereas as per the victim, father had entered into her room silently without making any noise. Even the testimony of the I.O. is full of contradictions regarding lodging of FIR and arrest of the accused.

40. In view of the aforesaid facts and circumstances together with the evidence adduced by the defence, there are reasonable doubts created in the prosecution case against the accused/respondent no. 2 and hence, learned Trial Court has acquitted the accused/respondent no. 2 giving him benefit of doubts.

41. Hence, there is no scope for this Court to interfere in the impugned judgment supplanting the view of learned Trial Court by other view. The view taken by learned Trial Court is reasonable and possible one based on proper appreciation of law and evidence on record. The appeal is, therefore, liable to be dismissed.

42. Accordingly, this appeal is dismissed upholding the impugned judgment of acquittal.



43. The records of the case be returned to the Trial Court forthwith.

44. Interlocutory application/s, if any, also stand disposed of, accordingly.

(Jitendra Kumar, J.)

I agree

(Ashutosh Kumar, J.)

Ravishankar/
S.Ali/Chandan/
Shoaib-

AFR/NAFR	N.A.F.R.
CAV DATE	29.08.2024
Uploading Date	03.09.2024
Transmission Date	03.09.2024

