

State of Gujarat Versus Vs Vanrajsinh Bahadursinh Parmar & Anr.

Court: Gujarat High Court

Date of Decision: Jan. 17, 2025

Acts Referred: Code of Criminal Procedure, 1973 " Section 207, 209, 313, 378(1)(3)

Indian Penal Code, 1860 " Section 107, 114, 306, 309, 323, 324, 498(A)

Bombay Police Act, 1951 " Section 135

Hon'ble Judges: S.V. Pinto, J

Bench: Single Bench

Advocate: Jirga Jhaveri, Parth S Tolia

Final Decision: Dismissed

Judgement

S.V. Pinto, J

1. Criminal Appeal No. 1483 of 2008 has been filed by the appellant - State against the respondents - original accused nos. 1 and 2 of Sessions Case

No. 62 of 2006 and Criminal Appeal No. 1484 of 2008 has been filed by the appellant - State against the respondents - original accused nos. 1 and 2

of Sessions Case No. 63 of 2006 under Section 378(1)(3) of the Code of Criminal Procedure, against the common judgement and order of acquittal

passed on 16.02.2008 by the learned Additional Sessions Judge and Presiding Officer, Fast Track Court No. 7, Gondal, Camp at Dhoraji, (hereinafter

referred to as "the learned Trial Court").

1.1 Both the Sessions Cases arose out of the same FIR registered with PatanVav Police Station I " C.R. No. 43 of 2004 under Sections 306 and

114 of the IPC, wherein, the respondents of Criminal Appeal No. 1483 of 2008 were shown as accused nos. 1 and 2 and the respondents of Criminal

Appeal No. 1484 of 2008 were shown as original accused nos. 3 and 4.

1.2 As both the Sessions Cases had arisen out of the same FIR and separate chargesheets were filed, both the cases were consolidated by the learned

Trial Court and the accused were referred to in the rank and file as they stood in the FIR and the cases were disposed off by a common judgement

and order.

1.3 The same judgment and order is under challenge in both the appeals and hence they are disposed off by a common judgment. The respondents of

Criminal Appeal No. 1483/2008 and respondents of Criminal Appeal No. 1484/2008 are referred to as the accused in the rank and file as they stood in

the FIR and common judgement 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 - Vanrajsinh Bahadursinh Parmar was married to Prakashba on 07.05.1999 and the accused nos. 2 and 4 - Jayshreeba

Bahadursinh Parmar and Gitaba Bahdursinh Parmar respectively were the sisters-in-law and accused no. 3 - Kanchanba Bahadursinh Parmar was

the mother-in-law of Prakashba. During the marriage span of five years, Prakashbhai could not bear a child, and all the accused used to mentally and

physically harass Prakashba and call her barren and Prakashba left her matrimonial house and came to her parental house. On 14.09.2004, the

brother-in-law - N. J. Chudasama came to the parental house of Prakashba and a conversation of compromise and sending her back to her

matrimonial house had taken place which was heard by Prakashba. She felt that they would send her back to the matrimonial house and as she was

afraid that her in-laws would physically assault her or kill her, on 16.06.2004 before 3:30 am, she sprinkled kerosene on her body and set herself ablaze

and expired. A complaint was filed by her brother - Dashrathsinh Nanbha Jadeja which was registered at PatanVav Police Station I Åçâ,—" C.R. No. 43

of 2004 under Sections 306, 114 of the IPC.

2.2 The Investigating Officer recorded the statements of the connected witnesses and seized the necessary documents and after completion of

investigation, the police filed the chargesheet before the learned Judicial Magistrate First Class, Dhoraji and as the said offences against the accused

were exclusively triable by the Court of Sessions, the case was committed to the Sessions Court, Gondal Camp at Dhoraji as per the provisions of

Section 209 of the Code of Criminal Procedure and case was registered Sessions Case No. 62/2006 and Sessions Case no. 63/2006.

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 and a charge at Exh. 23 was framed against the

accused and the statement of the accused were recorded at Exhs. 24 to 27, wherein, all the accused denied all the contents of the charge and the

entire evidence of the prosecution was taken on record.

2.4 The prosecution has produced 6 oral evidences and 13 documentary evidences to bring home the charge against the accused and after the learned

Additional Public Prosecutor filed the closing pursis at Exh. 53, the further statement of the accused under Section 313 of the Code of Criminal

Procedure, 1973 were recorded, wherein, the accused denied the evidence of the prosecution on record and refused to step into the witness box or

lead evidence and stated that a false case has been filed against them. 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 him.

3. Being aggrieved and dissatisfied with the said judgement and order of acquittal, the appellant - State has filed the present appeal mainly stating that

the impugned judgement 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 favour of the respondent. The case has been proved beyond reasonable doubts and the prosecution has successfully established the case

against the respondents and the judgement and order of acquittal is unwarranted, illegal and without any basis in the eyes of law and the reasons

stated while acquitting the respondent 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 Ms. Jirga Jhaveri for the appellant State and learned advocate Mr. Parth S. Tolia for the respondents. Perused the impugned

judgement and order of acquittal and have reappreciated the entire evidence of the prosecution on record of the case.

5. Learned APP Ms. Jirga Jhaveri has taken this Court through the entire evidence of the prosecution on record of the case and has submitted that

the prosecution has produced the evidence of 6 witnesses and 13 documentary evidences, including the wedding invitation card of the deceased and

the accused no. 1 at exhibit 45 and it is proved that the marriage had taken place on 07.05.1999. It is an admitted fact that due to the disputes between

the deceased and the accused during the marital life, a complaint was filed at Muli Police Station under Sections 498(A), 323, 324 and 114 of the IPC

and Section 135 of the B.P. Act which was registered at Muli Police Station II-C.R. No. 14 of 2004 and all the accused were charged for the said

offence before the Court of the learned Judicial Magistrate First Class, Muli. Criminal Case No. 207 of 2004 was tried and in that matter a

compromise had taken place and the accused had taken deceased Prakashba back to her matrimonial house. That even after this, the mental and

physical cruelty did not end and once again, Prakashba had come to her parental house and she had the fear that once she goes back to her

matrimonial home, the accused would physically beat her and would kill her. That she did not want to go back to the matrimonial house and she

committed suicide at her parental house. The witness examined by the prosecution has supported the case of the prosecution and the panchnamas

produced on record clearly proves that the offence has taken place. The learned Trial Court has not appreciated the evidence in proper perspective

and has passed the impugned judgement and order of acquittal. Learned APP has urged this court to allow the appeal and set aside the judgement and

order of acquittal.

6. Learned advocate Mr. Parth S. Tolia for the respondent has submitted that in the entire evidence of the prosecution, there is no iota of evidence

that the accused has committed any offence. The learned Trial Court has appreciated all the evidences and passed the judgement and order of

acquittal which is just and proper and no interference is required in the same and learned Advocate for the respondents has urged this court to reject

the appeal of the appellant.

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 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 Vs. State of M.P. (2006) 10 SCC 313, 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".

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, 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 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.

(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.

(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.

7.1 The Apex Court in yet another recent decision in case of Sri Dattatraya Vs. Sharanappa arising out of Criminal Appeal No. 3257 of 2024 (@ SLP

(Crl.) No. 13179 of 2023) observed as under:

31. The instant case pertains to challenge against concurrent findings of fact favouring the acquittal of the respondent, it would be cogent

to delve into an analysis of the principles underlining the exercise of power to adjudicate a challenge against acquittal bolstered by

concurrent findings. The following broad principles can be culled out after a comprehensive analysis of judicial pronouncements:

i) Criminal jurisprudence emphasises on the fundamental essence of liberty and presumption of innocence unless proven guilty. This

presumption gets emboldened by virtue of concurrent findings of acquittal. Therefore, this court must be extracautious while dealing with a

challenge against acquittal as the said presumption gets reinforced by virtue of a well-reasoned favourable outcome. Consequently, the

onus on the prosecution side becomes more burdensome pursuant to the said double presumption.

ii) In case of concurrent findings of acquittal, this Court would ordinarily not interfere with such view considering the principle of liberty

enshrined in Article 21 of the Constitution of India 1950, unless perversity is blatantly forthcoming and there are compelling reasons.

iii) Where two views are possible, then this Court would not ordinarily interfere and reverse the concurrent findings of acquittal. However,

where the situation is such that the only conclusion which could be arrived at from a comprehensive appraisal of evidence, shows that there

has been a grave miscarriage of justice, then, notwithstanding such concurrent view, this Court would not restrict itself to adopt an

oppugnant view. [Vide State of Uttar Pradesh v. Dan Singh]

iv) To adjudge whether the concurrent findings of acquittal are perverse, it is to be seen whether there has been failure of justice.

This Court in Babu v. State of Kerala clarified the ambit of the term 'perversity' as

"if the findings have been arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant/admissible

material. The finding may also be said to be perverse if it is against the weight of evidence, or if the finding so outrageously defies

logic as to suffer from the vice of irrationality.

v) In situations of concurrent findings favoring accused, interference is required where the trial court adopted an incorrect approach in

framing of an issue of fact and the appellate court whilst affirming the view of the trial court, lacked in appreciating the evidence produced

by the accused in rebutting a legal presumption. [Vide Rajesh Jain v. Ajay Singh]

vi) Furthermore, such interference is necessitated to safeguard interests of justice when the acquittal is based on some irrelevant grounds or

fallacies in re-appreciation of any fundamental evidentiary material or a manifest error of law or in cases of non-adherence to the

principles of natural justice or the decision is manifestly unjust or where an acquittal which is fundamentally based on an exaggerated

adherence to the principle of granting benefit of doubt to the accused, is liable to be set aside. Say in cases where the court severed the

connection between accused and criminality committed by him upon a cursory examination of evidences. [Vide State of Punjab v. Gurpreet

Singh and Others and Rajesh Prasad v. State of Bihar.]

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. That 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. That 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. With regard to Section 306 of the IPC it would be fit to reproduce the observations of the Apex Court in the case of Prakash and Ors. Vs. State of

Maharashtra in the order passed in Criminal Appeal No. 5543 of 2024 (Arising out of SLP (Cri.) No. 1073 of 2023) decided on 20.12.2024 in paras 12

to 22 which are as under:

12. The relevant provisions of the IPC that fall for consideration are as under:

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.

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.

Explanation 1- A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose,

voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2- Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of

that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

13. Section 306 of the IPC has two basic ingredients-first, an act of suicide by one person and second, the abetment to the said act by

another person(s). In order to sustain a charge under Section 306 of the IPC, it must necessarily be proved that the accused person has

contributed to the suicide by the deceased by some direct or indirect act. To prove such contribution or involvement, one of the three

conditions outlined in Section 107 of the IPC has to be satisfied.

14. Section 306 read with Section 107 of IPC, has been interpreted, time and again, and its principles are well-established. To attract the

offence of abetment to suicide, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the

accused, which must be in close proximity to the commission of suicide by the deceased. Such instigation or incitement should reveal a clear

mens rea to abet the commission of suicide and should put the victim in such a position that he/she would have no other option but to commit

suicide.

15. The law on abetment has been crystallised by a plethora of decisions of this Court. Abetment involves a mental process of instigating or

intentionally aiding another person to do a particular thing. To bring a charge under Section 306 of the IPC, the act of abetment would

require the positive act of instigating or intentionally aiding another person to commit suicide. Without such mens rea on the part of the

accused person being apparent from the face of the record, a charge under the aforesaid Section cannot be sustained. Abetment also

requires an active act, direct or indirect, on the part of the accused person which left the deceased with no other option but to commit

suicide.

16. This Court in the case of S.S. Chheena v. Vijay Kumar Mahajan and Another¹², had an occasion to consider the scope of Section 306

of the IPC and the ingredients which are essential for abetment, as set out in Section 107 of the IPC. It observed as follows:

“16. The word “suicide” in itself is nowhere defined in the Penal Code, however its meaning and import is well known and requires

no explanation. “Sui” means “self” and “cide” means “killing”, thus implying an act of self-killing. In short, a person

committing suicide must commit it by himself, irrespective of the means employed by him in achieving his object of killing himself.

“..

18. In our country, while suicide in itself is not an offence, considering that the successful offender is beyond the reach of law, attempt to

suicide is an offence under Section 309 IPC.

“..

21. The learned counsel for the appellant has placed reliance on a judgment of this Court in Mahendra Singh v. State of M.P. [1995 Supp

(3) SCC 731 : 1995 SCC (Cri) 1157] In Mahendra Singh [1995 Supp (3) SCC 731 : 1995 SCC (Cri) 1157] the allegations levelled were as

under: (SCC p. 731, para 1) “1. My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They

beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of

these reasons and being harassed I want to die by burning.” The Court on the aforementioned allegations came to a definite conclusion

that by no stretch the ingredients of abetment are attracted on the statement of the deceased. According to the appellant, the conviction of

the appellant under Section 306 IPC merely on the basis of the aforementioned allegation of harassment of the deceased is unsustainable in

law.

“..

23. In State of W.B. v. Orilal Jaiswal [(1994) 1 SCC 73 : 1994 SCC (Cri) 107] this Court has cautioned that: (SCC p. 90, para 17) “The court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it [appears] to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.”

24. This Court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the words “instigation” and “goadings”. The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the other. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is 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 that act must have been intended to push the deceased into such a position that he committed suicide.”

17. This Court held that abetment involves the mental process of instigating a person or intentionally aiding a person in doing of a thing. Therefore, without a positive act on the part of the accused to instigate or aid a person in committing suicide, conviction cannot be sustained. This Court further observed that the intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 of IPC, there has to be a clear mens rea to commit the offence. Abetment also requires an

or emotion without intending the consequences to actually follow cannot be said to be instigation.

20. It could thus be seen that this Court observed that instigation is to goad, urge forward, provoke, incite or encourage to do "an act".

It has been held that in order 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, however, a reasonable certainty to incite

the consequence must be capable of being spelt out. Applying the law to the facts of the case, this Court went on to hold that a word uttered

in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

21. Relying on the decision in the case of Ramesh Kumar (supra), this Court in the case of Ude Singh and Others v. State of Haryana

observed as follows:

"16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide.

It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a

vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for

abetment of suicide, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In

the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the

part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of

occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and

circumstances of each case.

16.1. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is

guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above referred, instigation

means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and

the action of the accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be

safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of

conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four

corners of Section 306 IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually

draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the

accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of

such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the

offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased

reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human

behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the

actions and psyche of the accused and the deceased.

16.2. We may also observe that human mind could be affected and could react in myriad ways; and impact of one's action on the mind of

another carries several imponderables. Similar actions are dealt with differently by different persons; and so far a particular person's

reaction to any other human's action is concerned, there is no specific theorem or yardstick to estimate or assess the same. Even in regard

to the factors related with the question of harassment of a girl, many factors are to be considered like age, personality, upbringing, rural or

urban set-ups, education, etc. Even the response to the ill action of eve teasing and its impact on a young girl could also vary for a variety

of factors, including those of background, self-confidence and upbringing. Hence, each case is required to be dealt with on its own facts

and circumstances. ¶

22. It could thus be seen that this Court observed that in cases of alleged abetment of suicide, there must be a proof of direct or indirect

act(s) of incitement to the commission of suicide. It has been held that since the cause of suicide particularly in the context of the offence of

abetment of suicide involves multifaceted and complex attributes of human behaviour, the court would be looking for cogent and convincing

proof of the act(s) of incitement to the commission of suicide. This Court further observed that a mere allegation of harassment of the

deceased by another person would not suffice unless there is such action on the part of the accused which compels the person to commit

suicide. This Court also emphasised that such an offending action ought to be proximate to the time of occurrence. It was further clarified

that the question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the

accused. It was further held that if the acts and deeds are only of such nature where the accused intended nothing more than harassment or

a snap-show of anger, a particular case may fall short of the offence of abetment of suicide, however, if the accused kept on irritating or

annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide.

This Court held that owing to the fact that the human mind could be affected and could react in myriad ways and that similar actions are

dealt with differently by different persons, each case is required to be dealt with its own facts and circumstances.

10. In light on the above settled principles of law and considering the evidence of the prosecution, to bring home the charge against the accused, the

prosecution has examined PW1 "Dashrathsinh Nanbha Jadeja at Exh. 43 and the witness is the brother of the deceased Prakashba and the

complainant who has filed the complaint which is produced at Exh. 44. The witness has stated that the deceased was residing in joint family with all

the accused and all the accused used to mentally harass the deceased and a case was conducted in Muli Court. That he does not know what has

taken place in that case and as there was a quarrel in the house, Dilvarba Natubha brought the deceased to her marital home. The father-in-law of

Prakashba expired in an accident and she was sent back to her marital home and as there was intolerable harassment to Prakashba, she was brought

to Surendranagar for treatment and thereafter they brought her home. That some relatives came and there was a conversation for a compromise

which was heard by Prakashba and she told Mamta "the wife of the complainant and his brother Chandrasinh that she would be killed if she was

sent to her matrimonial house. That on the same night, Prakashba went into the kitchen and burnt herself and after the cremation, he had filed the

complaint at PatanVav Police Station which is produced at Exh. 44. During the cross-examination, the witness has stated that from 23.03.2004 till the

date of the incident, he did not go to the house of the accused and during this time, the accused did not visit his house. That his brother Chandrasinh is

working as a driver of Police Inspector - Natwarsinh Jilubha of Prohibition Branch for last six years and Chandrasinh had told him on 14.09.2004 that

the accused wanted to compromise and take Prakashba back to the matrimonial home. On 16.09.2004, his mother woke him up at 3:30 am and he

saw Prakashba lying burnt on the floor and they informed the police at around 7:00 - 7:30 am. That at that time, he informed the police that Prakashba

had committed suicide for some unknown reason.

10.1 The prosecution has examined PW2 - Popatba Nanbha Jaedja at Exh. 46 and the witness is the mother of deceased Prakashba. The witness has

fully supported the case of the prosecution and during the cross-examination she has stated that Prakashba was at her house from six months prior to

the incident and during this time, the accused did not come to their house and they did not go to the house of the accused.

10.2 The prosecution has examined PW3 - Mamtaba Dashrathsinh at Exh. 47 and the witness is the sister-in-law who has fully supported the case of

the prosecution and has stated the same facts as mentioned in the complaint by the complainant. During the cross-examination by the learned

advocate for the accused, the witness has stated that the accused did not ill treat the deceased in her presence and she did not go to Muli. Whatever

she has stated in the examination-in-chief was hearsay and the accused nos. 2 and 4 who are the sisters-in-law of the deceased were residing at

Rajkot and they were married in the year 2003.

10.4 The prosecution has examined PW4 - Ilaba Ashwinsinh Parmar Exh. 48 and the witness has denied that she knew the deceased or the accused.

The witness has stated that she does not know anything about the incident and the police had not recorded her statement.

10.5 The prosecution has examined PW5 - Chandrasinh Nanbha Jadeja at Exh. 49 and the witness is the brother of the deceased Prakashba who has

stated that his sister was married to the accused no. 1 in the year 1998 and one year after her marriage, she had come back to her parental house and

thereafter, as her father-in-law had expired, she had returned to the matrimonial home. That she was ill treated by her mother-in-law and prior to the

incident, talks of compromise had taken place but his sister came to know about the compromise and she had stated that she would be killed if she had

gone to the matrimonial home and thereafter, she committed suicide at around 3:00 am. His sister had sprinkled kerosene on herself and committed

suicide. During the cross-examination, the witness has stated that a complaint was filed at Muli Police Station on 23.03.2004 and the trial was

conducted where he had deposed as a witness. Prakashba resided with her family from 23.03.2004 to 16.09.2004 and during this time, she did not go

to Muli and the accused did not come to their place. They did not inform the accused that Prakashba expired and he was present when the talks of

compromise had taken place.

10.6 The prosecution has examined PW6 - Atulkumar Bhikhabhai Vanand at Exh. 50 and the witness is the Investigating Officer who has narrated in

detail all the procedure that was undertaken by him during investigation. During the cross-examination, the witness stated that he did not record the

statements of Yograjsinh Zala and Manharsinh Zala who had the conversation regarding the compromise between the parties. During the

investigation, it was not found that Prakashba had stated that she did not want to go to Muli and during investigation, all the witnesses had stated that

the deceased might have heard the conversation and she might have thought that she would be tortured if she would go to Muli. The muddamal seized

during investigation was not sent to the FSL.

11. On minute dissection of the entire evidence of the prosecution, the infirmities in the evidence have come on record and there is no iota of evidence

that the accused committed any act to abet the commission of suicide of the deceased. The evidence on record such that the deceased Prakashba

was residing at her parental home from 23.03.2004 to 16.09.2004 and during this time, she did not meet the accused and did not go to her matrimonial

house and the accused did not come to her parental home. That in fact, the accused were trying for the compromise to take her back to the

matrimonial home and there is no clear evidence as to who were the mediators sent by the accused for the compromise as the investigating officer

has not recorded the statements of any such persons. The only evidence on record is the bald statements of the complainant and the witnesses who

are the mother, brother and sister-in-law of the deceased who have stated that the deceased might have heard the conversation about the compromise

and she might have thought that she will be killed if she was sent to her matrimonial home. The entire evidence does not suggest that the accused met

the deceased immediately prior to the unfortunate incident and there is no evidence that there was any active act or direct act on the part of the

accused which led the deceased to commit suicide. There is no established mens rea - the intention to abet the commission of suicide by the accused

and there is no iota of evidence that the deceased was subjected to any harassment by the accused. In the evidence of the prosecution, the judgement

of Criminal Case No. 207 of 2004 is produced where in the case registered by the deceased under Sections 498(A), 323, 324 and 114 of the IPC and

Section 135 of the B.P. Act at Muli Police Station II & " C.R. No. 14 of 2004 and at the conclusion of trial, the accused were acquitted for the

offence. The learned Trial Court has discussed the entire evidence produced by the prosecution including the ingredients of Section 107 of the IPC

and has concluded that there is evidence that the deceased Prakashba did not meet the accused for six months prior to the incident and the ingredients

of Section 306 are not attracted.

12. On minute re-appreciation of the entire evidence of the prosecution and the impugned judgment and order, it appears that the learned Trial Court

has thoroughly appreciated all the evidence on record and has given due consideration to all the material pieces of evidence. The learned Trial Court

has discussed all the oral as well as documentary evidences and if the evidence produced by the prosecution, it appears that the learned Trial Court

has arrived at findings which are legal and proper and there are no errors of law or facts. Moreover, the view taken by the learned Trial Court in

acquitting the accused is fairly possible and there is no illegality and perversity in the impugned judgment and order of acquittal.

13. In view of the settled position of law in the decisions of Prakash (supra), the learned trial Court has appreciated the entire evidence in proper

perspective and there does not appear to be any infirmity and illegality in the impugned judgment and order of acquittal. The learned Trial Court has

appreciated all the evidence and this Court is of the considered opinion that the learned Trial Court was completely justified in acquitting the accused

of the charges leveled against them. The findings recorded by the learned Trial Court are absolutely just and proper and no illegality or infirmity has

been committed by the learned trial Court and this Court is in complete agreement with the findings, ultimate conclusion and the resultant order of

acquittal recorded by the learned Trial Court. This Court finds no reason to interfere with the impugned judgment and order and the present appeal is

devoid of merits and resultantly, the same is dismissed.

14. The impugned judgement and order of acquittal passed on 16.02.2008 by the learned Additional Sessions Judge and Presiding Officer, Fast Track

Court No. 7, Gondal, Camp at Dhoraji, is hereby confirmed.

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