

(2017) 03 GUJ CK 0161

GUJARAT HIGH COURT

Case No: 1782 of 2006

THE STATE OF
GUJARAT

APPELLANT

Vs

NATUBHAI
BECHARBHAI PATEL
AND ORS.

RESPONDENT

Date of Decision: March 28, 2017

Acts Referred:

- Code of Criminal Procedure, 1973, Section 313, Section 209, Section 378, Section 235 - Power to examine the accused - Commitment of case to Court of Session when offence is triable exclusively by it - Appeal in case of acquittal - Judgment of acquittal or conviction
- Indian Penal Code, 1860, Section 397, Section 147, Section 324, Section 447, Section 323, Section 148, Section 149, Section 395, Section 427, Section 156(3), Section 504, Section 506(2) -
- Gujarat Panchayat Act, 1961, Section 105

Hon'ble Judges: S.R.Brahmbhatt, A.J. Shastri

Bench: Division Bench

Advocate: HANSA B. PUNANI, HEENA D. RANA, DILIP B RANA

Judgement

1. The present Criminal Appeal is filed by the State under Section 378 of the Code of Criminal Procedure, 1973 ("Cr.P.C." for short) against the judgment and order dated 17.03.2006 passed by the learned Additional Sessions Judge and Fast Track Court No.4, Nadiad in Sessions Case No.314 of 1998.

2. The case of the prosecution is that on 26.06.1996 between 1300 to 2000 hrs., original accused No.1, who was the Sarpanch of Village: Undel, constituted an unlawful assembly with the co-accused with a common intention to trespass the house of the complainant

and thereby has caused by attacking and damaged to the property and the accused persons came to the house of the complainant armed with weapons like stones, stick, iron rod, spade etc. and assaulted the complainant and other witnesses viz. Gordhanbhai R.Parekh and Kantibhai and this conducted on account of the fact that they have not voted in favour of the accused in election and it is this intention which is made the subject matter of the FIR lodged under Sections 147, 148, 149, 447, 427, 504, 506(2), 323, 324, 395 and 397 of the Indian Penal Code, 1860 ("IPC", for short).

2.1 The complaint came to be filed against the accused Natubhai Becharbhai Patel which was sent for investigation under Section 156(3) of the IPC. Pursuant to the said complaint, the investigation was conducted by the Investigating Officer who carried out the investigation and "C" summary was submitted on 03.12.1996 and whether "C" summary is to be approved or not for that purpose, opportunity was given to the complainant in which the complainant submitted the objections and in response thereto the Judicial Magistrate First Class, Khambhat sent the complaint for re-investigation and thereafter the investigation was further carried out by drawing panchnama of the scene of offence by arresting the accused persons and arrest panchnama came to be prepared. Recovery panchnama is also drawn in view of Section 27 of the Act and after completion of investigation, a charge-sheet came to be filed on 14.10.1997 before the learned Judicial Magistrate First Class, Khambhat for offence punishable under Sections 147, 148, 149, 395, 397, 504, 506(2) read with Section 114 of the Indian Penal Code. The accused persons were enlarged on bail in connection with the said complaint but then since the case was triable by the Court of Sessions, in exercise of jurisdiction the learned Magistrate, vide order dated 27.01.1998, under Section 209 of the Cr.P.C. was pleased to commit the case to the Court of Sessions which was registered as Sessions Case No.314 of 1998.

2.2 After the case being committed to the Sessions, the same came up for consideration before the learned Additional Sessions Judge and Fast Track Court No.4, Nadiad in which the charge was framed against the respondent accused but since the accused No.11 did not remain present for trial, vide order under Exh.20, case was segregated and later on against accused Nos.1 to 10 the case was ordered to be proceeded with and so far as accused No.11 Ramanbhai Gordhanbhai Mistri is concerned supplementary charge sheet was ordered. The record indicates that original accused Nos.1 to 10 have submitted an application below Exh.26 inter alia contending that no offence is made out against them and therefore by submitting an application they requested to drop themselves from the prosecution which application came to be dismissed and thereafter at Exh.44 charge came to be framed finally against respondent accused Nos.1 to 10. The plea was recorded by the accused persons in which they have denied the offence being committed and therefore was put up for evidence. In the meantime, it appears that the accused persons, pursuant to an order below Exh.26, have presented a Criminal Revision Application No.254 of 2003 before this Court and remanding the matter by setting aside the order passed below Exh.26 and by granting fresh opportunity the application at Exh.26 was ordered to be disposed of and therefore the Predecessor of the present Trial Judge heard the application again i.e. application below Exh.26 and then after hearing both the sides the application submitted came to be rejected. Again respondents accused

approached this Court by way of Criminal Miscellaneous Application but since the same came to be dismissed the case was put up for further adjudication. 2.3 It appears that after putting up the case for final adjudication the prosecution has led evidence in the form of oral as well as documentary evidence. As many as 13 witnesses have been examined and 11 documentary evidences came to be adduced before the Trial Court and after submitting the same, pursis came to be submitted for closer of the stage of evidence by the prosecution and thereafter with a view to give an opportunity to the respondent accused further statement of the accused have been recorded under Section 313 of the Cr.P.C. in which also respondents accused denied the offence being committed and therefore the case was put up for final adjudication in which the learned Trial Judge has framed the issues and after examining the evidence as a whole and after considering the documentary evidences and upon hearing the respective sides, the learned Trial Judge has come to the conclusion that no case is made out by the prosecution against respondent accused and therefore vide judgment and order dated 17.03.2006, the respondents accused came to be acquitted for the offences for which they have been tried by exercising jurisdiction under Section 235 of the Cr.P.C. The evidence of original accused No.11 was not available during the course of trial. After tendering supplementary evidence, his case was segregated and kept in abeyance. It is this judgment and order is made the subject matter of present Criminal Appeal.

3. The learned Assistant Public Prosecutor Ms.Hansa Punani appearing for the State has vehemently contended that order of acquittal is not just and proper in the background of present facts. It is contended that after examining the entire material, the competent authority has granted sanction to prosecute and it is pursuant to that the case has been established by prosecution by leading evidence at length. From the documentary evidence and the testimony of witnesses, Mr.Punani, learned APP has contended that prosecution has proved the case beyond reasonable doubt and therefore there was no cogent reason available for the learned Trial Judge to pass an order of acquittal. Ms.Punani has further submitted that on the contrary the offences which have been put up against the respondents have clearly attracted the ingredients contained thereof looking to the role established of the respondents accused. Ms.Punani has further submitted that at the relevant point of time, respondent No.1 was not acting as Sarpanch as is removal was the subject matter of litigation and therefore his act was in cloud, the learned Trial Judge could not have missed it while passing the impugned order. It has also been contended by Ms.Punani that this action of respondent accused in dismantling the property of the complainant in a hard heating manner was also the subject matter of scrutiny before higher authority in which there is a report of Taluka Development Officer which has indicated that at the relevant point of time the power which was exercised was excessive impermissible and this material aspect ought not to have ignored by the learned Trial Judge while passing the order. Ms.Punani has further submitted that even the reasons which are assigned by the learned Trial Judge are not sufficient enough to justify the conclusion. On the contrary, this Court has in earlier round of litigation in several matter has examined the role of the respondent accused and therefore remanded

the matter and therefore considering this circumstance the entire exercise of so-called powers by respondent no.1 with aid and assistance of other respondents accused is a matter of serious controversy in which it has been established that the powers were not such which can cause immense damage to the property of the complainant. On the contrary with a view to settle the political score with the complainant, there appears to be exercise of powers by respondent No.1 and therefore, prima facie, it suggests that offences which are alleged are quite attracted in the background of present fact. It is also contended by Ms.Punani that the fact that at subsequent point of time the construction was put up in as it is manner would make it clear that what had been done by respondent No.1 was not germane to law and therefore when a public office is being exercised by respondent to settle the private score with complainant such action cannot be viewed leniently and therefore this aspect having not been considered in its true spirit, the order passed by the learned Trial Judge deserves to be corrected. 3.1 Ms.Punani has further contended that a specific charge was framed and in that context only the evidence has been led which has prima facie suggested that serious act is committed by the respondent No.1 along with other respondents who are aid and assistance to respondent No.1 and therefore this being the position prevailing on record, the learned Trial Judge ought not to have ignored the cogent material available to justify the case of the prosecution. In fact, the statements which have been recorded indicate that there was scuffle also took place stoned pelted instances have also occurred and there appears that encroachment was a side issue but in fact under the garb of removal of encroachment a political rivalry is given and an ultimate conclusion against the complainant and therefore all these issues have been examined by the competent authority and then granted sanction which clearly indicates that prosecution has ample evidence led before the trial Judge to establish the case beyond reasonable doubt. This attempt could not have been overlooked more particularly when damage is undisputedly caused to the complainant property at the instance of respondent No.1 and other assailants who are co-accused in the present proceedings and therefore when undisputed positions prevailing on record are indicate that something criminally is done the order could not have been just pass to give signal to such kind of injuries again. There was a report of the Taluka Development Officer as well which has also clearly indicated that powers which are sought to be exercised were not properly exercised and therefore the basic conduct of respondent No.1 clearly attracts substantial ingredients of offences which are alleged. The learned Judge could not have ignored the same and therefore this being position prevailing on record the order passed by the learned Trial Judge in granting acquittal to the respondent accused is nothing but a miscarriage of justice and therefore on this ground alone the impugned order requires to be quashed and set aside by allowing the appeal filed by the State.

4. To oppose the stand taken by learned Additional Public Prosecutor, Ms.Hina D. Rana, learned advocate appearing with Mr.Dilip B. Rana, learned advocate representing the respondents accused Nos. 1 to 10 has clearly contended that there appears to be no error committed by learned Trial Judge in passing the judgment. In fact, the prosecution

has miserably failed in establishing the case against the respondents accused beyond reasonable doubt and that has rightly been appreciated by the learned Trial Judge and therefore when the cogent reasons are assigned while arriving at conclusion, the same cannot be treated as unjust or improper order. On the contrary, reasons which are assigned in consonance with the evidence on record and there is no legal infirmity in exercising of jurisdiction and therefore Ms.Hina Rana has contended that in absence of any perversity or legal infirmity, the conclusion arrived at by learned Trial Judge does not require any inference. Ms.Rana has further contended that whatever has been done by the respondents accused alleged in the case has been done in discharge of his official duty as Sarpanch and thereto the same was in the interest of public at large and as there was an act of removal of encroachment. In fact, the specific resolution came to be passed in the Panchayat to remove the encroachment and the power was invested in respondent No.1 to carry out such act of public importance and therefore the same may not be treated as violence of any law. In fact the Panchayat has authorised the applicant to carry out the process and that has been undertaken and therefore cannot be said to be an act of illegal nature which attract any offence. In fact, the sanction which was granted in routine manner was assailed and that was subject matter of controversy. However, be that as it may even if take it that sanction is granted by the Government then also action cannot satisfy a test of ingredients of offence which are alleged and therefore in such a situation to dislodge finding of acquittal granted by the learned Trial Judge is violating settled principles of law laid down by series of decisions. Ms.Rana further contended that a specific defense was put up by the respondent accused and for that purpose even if some lame irregularity is found the same cannot straightway treated to have committed any offence and therefore this being the position from the overall material on record, it cannot be said that case has been proved beyond reasonable doubt by the prosecution. On the contrary, statements have been recorded belatedly and that has not given any credence to the testimony and that has been visually found by the learned Judge. In fact after removal of encroachment, the roads were cleaned up and utensils have been ordered to be deposited in the Panchayat and from the overall evidence on record Ms.Rana has contended that there is a reflection of any specific rivalry otherwise no independent witness has supported in any form the story put up by the prosecution and therefore in the absence of any cogent evidence of impeachable nature, order of acquittal may not be disturbed in the interest of justice. In fact the presumption innocence is reenforced by an order of acquittal in favour of respondents and therefore such a situation may not be altered to the detriment in any way in absence of any stinking material. From the entire reading of the material Ms.Rana has submitted that there is strong application of mind on the part of learned Trial Judge. The learned Trial Judge has also dealt with each evidence led by the prosecution during the course of adjudication and after examining and upon analysis the same has been passed and therefore in the absence of any perversity or non-dealing with any material, it cannot be said that any jurisdictional error is committed by the learned Trial Judge. It is settled position of law as contended by learned advocate Ms.Rana that when two views are plausible, the view which has been taken by the trial Court is normally not to be disturbed more particularly in view of the fact

that learned trial Judge has an opportunity to see demeanor of the witnesses and therefore in this situation when specific conclusions have been arrived at to reinforce innocence of the respondents even if another view is plausible. Ms.Rana has contended not to take different view or dislodge the finding and by referring testimony of some of the witnesses, Ms.Rana has strengthened her submissions and ultimately requested the Court that since there appears to be no merit in the State Appeal, the same be dismissed in the interest of justice. Ms.Rana has submitted that there appears to be no miscarriage of justice of any nature and therefore no order of acquittal be interfered with.

5. Having heard learned advocates appearing for the respective parties, having gone through the material on record in co-relation to reasons which are assigned by the learned trial Judge and to arrive at a just conclusion even independent look at the evidence has been made by this Court from which the ultimate analysis is not permitting the Court to take a different view.

6. While arriving at this conclusion, we have gone through the specific charge which has been framed against the respondents accused we have also gone through the order passed by this Court dated 20.06.2003 passed in Criminal Revision Application No.254 of 2003 and in furtherance of it, we have also gone through the testimony of some of the witnesses which have been put up for proving the case by prosecution.

7. From the testimony of Gordhanbhai Ranchhodbhai, Prosecution Witness No.1, who has been examined at Exh.98, has deposed before the Court and from whose testimony, it is revealing that the incident in question of dismantling has taken place in the presence of Kantibhai and other family members. A fact is emerged from the record that this testimony has also indicated that this witness has given an application before the Panchayat for removal of encroachment of Kantibhai and in turn the said Kantibhai appears to have given an application for removal of house of this very witness. The testimony further reveals that both Kantibhai as well as this witness have put up their houses in as it is position. It has also been admitted by this witness that when these respondents accused came for removal of encroachment along with him the Talaticum-Mantri also was present and a measurement of the house has also taken place at their instances before taking any step in this regard. It has also been admitted by this witness that only after taking measurement the dismantling work was carried out and therefore it appears that prima facie from the testimony that process of dismantling has taken place in systematic manner.

8. From the record further we have gone through the testimony of Kantibhai Chhotabhai Patel, Prosecution Witness No.2 at Exh.100, which indicates that he was not present at the relevant point of time as was at his relative's place. This witness in cross-examination has specifically admitted that Panchayat did give a notice prior to one and half months and the testimony has further revealed that the demolition which are taken place for which he lodged the criminal complaint in which process "C" summary had been filed by

the prosecution and then it appears that nothing further has taken place. It is also emerged from this testimony that defense is taken that Rs.2000/- have been paid for the purpose of occupation of land in question but then there seem to be no material to justify this stand. In addition thereto when another witness is examined at Exh.105 viz.Ambalal Ranchhodbhai, Prosecution Witness No.6 and he has not supported the case of prosecution as has been declared hostile. At the relevant point of time, occurrence of incident as alleged this witness has gone inside the house and therefore not supported the case. Similar is the case of Hansaben Kantibhai, Prosecution Witness No.7, who has not cogently supported the case as she also admitted that prior to incident she has received the notice for removal of garbage. In cross-examination, this witness has admitted that the steps have been taken by Panchayat Offices. The evidence further revealed that one Jayantibhai Dashratbhai Patel has been examined by the prosecution but then this witness has also turned hostile.

9. Yet another witness Punambhai Ramabhai Patel, Prosecution Witness No.9, put up for justifying the stand of prosecution who is a laborer in dismantling process. In crossexamination he has conveyed that there was specific order of removal of encroachment and therefore from the aforesaid testimony it is revealed that majority witnesses have not supported the case of the prosecution and the independent witnesses have not been examined. Whoever been examined has not substantially supported the case of the prosecution and therefore in the background of this fact upon analysis aforesaid testimony and material, the learned Judge has evaluated and come to the conclusion that no case is made out of that nature which can be justified the conviction and therefore passed an order of acquittal. The panchnama drawn for recovery of alleged weapons consisting of stick and sped the witnesses of that panchnama have not supported the case of the prosecution. It has also been found by learned Trial Judge from the record that an allegation is levelled that respondent accused have taken away the utensils and furniture from the house but for that purpose neither it is establishing from testimony of witnesses nor from material including the recovery panchnama as well and therefore when such act alleged is not established beyond reasonable doubt to raise an inference uncalled for. On the contrary, learned Judge has found that "C" summary which was filed was reopened and reinvestigation has taken place in which it has been found specifically by Deputy Police Officer who found some material and then filed charge sheet. So far as other act which has been alleged of giving threat and using of abusive language none of the witnesses established the said act. On the contrary, there appears to be a stiff condition from the version of the complainant as well as Sarojben herself and therefore had there been any intention of committing "Loot", then panchnama could not have been drawn by the prosecution. On the contrary, drawing of panchnama is itself indicative of the fact that there is no ill-motive of any nature and this fact of drawing of panchnama is established even from the testimony of the complainant himself and therefore when this action of demolition of encroachment is undertaken by the Sarpanch and other assisted persons, it cannot be said, in any way, that there was any element of vengeance. On the contrary, the witnesses, who have deposed before the Court, whose

testimony are examined by the Court and arrived at conclusion that it is not clearly established that such act of demolition has taken place. On the contrary the testimony of this witness has been examined by learned Trial Judge and then come to the conclusion. Therefore such conclusion which is based upon the evidence on record, it cannot be said that any infirmity is reflecting in the order.

10. The evidence further revealed and the conclusion arrived at based upon it indicates that for the purpose of removal of encroachment, notices have been issued through "UPC" and whatever has been paid to the laborers have been recorded in the register by the Sarpanch in official record and whatever things which have been recovered have been placed in the Panchayat Office by drawing panchnama and therefore no evidence can be attributed for the offences which are alleged. In fact, at relevant point of time, the Panchayat had an authority to take an action of removal and therefore when these evidences, which are prevailing on record, have been evaluated by the learned Trial Judge and come to conclusion, it appears that prosecution has miserably failed to establish its case against the respondents accused.

11. These conclusions are also perused by us and also gone through the evidence as a whole adduced by the prosecution and upon such analysis we see no reason to disbelieve the defence totally. In fact, there appears to be no concrete material to indicate any offences being committed. On the contrary such action was subject matter of dispute before different forum and the District Development Officer and the Taluka Development Officer also have examined but but such examination is also not revealing anything beyond to arrive at safely and to conclude that respondents accused are guilty of any offence and therefore in the absence of any cogent material contrary available to dislodge the findings, we are of the considered opinion that such order reflecting cogent reasons does not call for any interference and thereto in exercise of appellate jurisdiction.

12. In fact, while examining the evidence as a whole and examining the order under challenge, we are mindful of the fact that there are self-imposed limitations propounded by series of decisions in which even if another view is possible the same cannot be substituted in the absence of any legal infirmity or perversity which may result into miscarriage of justice. We see no such circumstance from the record to justify us to dislodge findings arrived at by learned Judge of not believing the case of the prosecution and therefore we are unable to exercise discretion sitting in appeal against the order of acquittal and accordingly we see no merit in the appeal filed by the State and hence it deserves to be dismissed. We have considered and taken assistance from the following decisions of Apex Court which propounded peripheral limit of appellate jurisdiction and some of the excerpts from the said decisions read thus:

"In the decision delivered by the Supreme Court in case of Sureshkumar V/s. State of Haryana, reported in (2013) 16 SCC 353, it was observed that if two views are possible,

the High Court should hold in favour of the accused and should not interfere with an order of acquittal. The relevant observations of the decision are reflected in Para.55, 56 and 57 which read as under :

55. The second contention is that the High Court ought not to have interfered in the acquittal by the Trial Court. It was submitted that if two views are possible, the High Court should lean in favour of the accused and should not interfere with an acquittal.

56. A few years ago, the law on the subject was culled out from a large number of decisions and summed up in *Ghurey Lal v. State of U.P.*, (2008) 10 SCC 450 : (AIR 2009 SC (Supp) 1318 : 2008 AIR SCW 6598) as follows:

"1. The appellate court may review the evidence in appeals against acquittal under Sections 378 and 386 of the Criminal Procedure Code, 1973. Its power of reviewing evidence is wide and the appellate court can reappraise the entire evidence on record. It can review the trial court's conclusion with respect to both facts and law.

2. The accused is presumed innocent until proven guilty. The accused possessed this presumption when he was before the trial court. The trial court's acquittal bolsters the presumption that he is innocent.

3. Due or proper weight and consideration must be given to the trial court's decision. This is especially true when a witness' credibility is at issue. It is not enough for the High Court to take a different view of the evidence. There must also be substantial and compelling reasons for holding that the trial court was wrong. In light of the above, the High Court and other appellate courts should follow the wellsettled principles crystallized by number of judgments if it is going to overrule or otherwise disturb the trial court's acquittal:

1. The appellate court may only overrule or otherwise disturb the trial court's acquittal if it has "very substantial and compelling reasons" for doing so.

A number of instances arise in which the appellate court would have "very substantial and compelling reasons" to discard the trial court's decision. "Very substantial and compelling reasons" exist when:

i. The trial court's conclusion with regard to the facts is palpably wrong;

- ii. The trial court's decision was based on an erroneous view of law;
- iii. The trial court's judgment is likely to result in "grave miscarriage of justice";
- iv. The entire approach of the trial court in dealing with the evidence was patently illegal;
- v. The trial court's judgment was manifestly unjust and unreasonable;
- vi. The trial court has ignored the evidence or misread the material evidence or has ignored material documents like dying declarations/report of the ballistic expert, etc.
- vii. This list is intended to be illustrative, not exhaustive."

57. Learned counsel for Suresh Kumar referred to S. Anil Kumar v. State of Karnataka, (2013) 7 SCC 219 : (2013 AIR SCW 6180) particularly paragraph 14 of the Report wherein reliance was placed on Rohtash v. State of Haryana, (2012) 6 SCC 589 : (AIR 2012 SC 2297 : 2012 AIR SCW 3318) to conclude that it is "only in exceptional cases where there are compelling circumstances and where the judgment in appeal is found to be perverse, can the High Court interfere with the order of acquittal." In Rohtash it was further observed:

"The appellate court should bear in mind the presumption of innocence of the accused and further that the trial court's acquittal bolsters the presumption of innocence. Interference in a routine manner where the other view is possible should be avoided, unless there are good reasons for interference. (Vide State of Rajasthan v. Talevar, (2011) 11 SCC 666 : (AIR 2011 SC 2271 : 2011 AIR SCW 3889) Govindaraju v. State (2012) 4 SCC 722 : (AIR 2012 SC 1292 : 2012 AIR SCW 1994).

In yet another decision in the case of Ramaiah @ Rama Vs. State of Karnataka, 2014(9) SCC 365, it has been held by Hon"ble Apex Court that if two views are possible on the evidence adduced and the one favourable to the accused has been taken by the trial court, it should not be disturbed as observed in paragraph Nos.30 and 31.

In the case of Upendra Pradhan Vs. State of Orissa, 2015(5) Scale 634, it has been held by Hon"ble Apex Court that when there are two views culled out from the perusal of evidence and application of law, the view which favours the accused should be taken.

Paragraph No.10 of the said decision reads thus:

10. Taking the First question for consideration, we are of the view that in case there are two views which can be culled out from the perusal of evidence and application of law, the view which favours the accused should be taken. It has been recognized as a human right by this Court. In *Narendra Singh and another v. State of M.P.*, (2004) 10 SCC 699 : (AIR 2004 SC 3249), this Court has recognized presumption of innocence as a human right and has gone on to say that:

"30. It is now well settled that benefit of doubt belonged to the accused. It is further trite that suspicion, however grave may be, cannot take place of a proof. It is equally well settled that there is a long distance between "may be" and "must be".

31. It is also well known that even in a case where a plea of alibi is raised, the burden of proof remains on the prosecution. Presumption of innocence is a human right. Such presumption gets stronger when a judgment of acquittal is passed. This Court in a number of decisions has set out the legal principle for reversing the judgment of acquittal by a Higher Court (see *Dhanna v. State of M.P.*, *Mahabir Singh v. State of Haryana* and *Shailendra Pratap v. State of U.P.*) which had not been adhered to by the High Court.

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33. We, thus, having regard to the postmortem report, are of the opinion that the cause of death of Bimla Bai although is shrouded in mystery but benefit thereof must go to the appellants as in the event of there being two possible views, the one supporting the accused should be upheld. The decision taken by the Apex Court in the case of *V. Sejappa Vs. State*, reported in 2016 AIR (SC) 2045, wherein the apex Court in paragraph no.21 observed thus: 21. If the evaluation of the evidence and the findings recorded by the trial court does not suffer from any illegality or perversity and the grounds on which the trial court has based its conclusion are reasonable and plausible, the High Court should not disturb the order of acquittal if another view is possible. Merely because the appellate court on reappraisal and reevaluation of the evidence is inclined to take a different view, interference with the judgment of acquittal is not justified if the view taken by the trial court is a possible view. In *State through Inspector of Police, A.P. v. K. Narasimhachary* (2005) 8 SCC 364, this Court reiterated the well settled principle that if two views are possible, the appellate court should not interfere with the acquittal by the lower court and that only where the material on record leads to an inescapable conclusion of guilt of the accused, the judgment of acquittal will call for interference by the appellate court. The same view was reiterated in *T. Subramanian v. State of T.N.* (2006) 1 SCC

13. From the evidence on record, we have also found the notices which have been issued upon the complainant and other persons. We have also gone through the register of dailywagers and have also gone through the resolutions passed by the Panchayat and we have also gone through the notices which have been issued in exercise of powers under Section 105 of the Gujarat Panchayat Act and having gone through these materials, which are available on record, we found that it is not a case in which in total disregard to requirement of law any action is taken by the respondents accused. On the contrary, a specific resolution is reflecting on record in which the powers have also been entrusted to undertake such exercise of dismantling the construction. The documentary evidences which have been led have made it amply clear that action alleged is not such which would attract the offence which has been alleged looking to the bare minimum requirement of ingredients to establish the offence for which respondents have tried there appears to be no cogent evidence led by the prosecution by virtue of which it can be safely held that prosecution has proved its case beyond reasonable doubt and therefore when such situation is not reflecting on record, the benefit must lean in favour of respondents accused and therefore overall analysis which is undertaken justifies the order of acquittal.

14. The present appeal is dismissed. The judgment and order, dated 17.3.2006, passed in Sessions Case No.314 of 1998, by the learned Additional Sessions Judge, Fast Track Court No.4, Nadiad, is hereby confirmed. Bail bonds, if any, shall stand discharged. Record and Proceedings be sent back to the trial Court concerned, forthwith.