

(2026) 02 GUJ CK 1623
In the Gujarat High Court
Case No : R/Criminal Appeal No. 840 Of 2001

State Of Gujarat	Vs	APPELLANT
Vinayakbhai Bhausahab Kavlanekar & Ors		RESPONDENT

Date of Decision : 04-02-2026

Acts Referred:

Indian Penal Code, 1860 — Section 143, 147, 148, 149, 302, 323, 504
Bombay Police Act, 1951 — Section 135(1)
Code Of Criminal Procedure, 1973 — Section 313, 378

Citation : (2026) 02 GUJ CK 1623

Hon'ble Judges : Ilesh J. Vora, J;R. T. Vachhani, J

Bench : Division Bench

Advocate : Ronak Raval, BM Mangukiya, Bela A Prajapati

Final Decision : Dismissed

Judgement

R. T. Vachhani, J

1. Feeling aggrieved and dissatisfied with the judgment and order of acquittal dated 31.07.2001 passed by the learned Additional Sessions Judge, Ahmedabad Rural in Sessions Case No.127 of 1996, whereby the respondents-accused came to be acquitted for the offences punishable under Sections 143, 147, 148, 149, 302, 323 and 504 of the Indian Penal Code and Section 135(1) of the Bombay Police Act, the appellant – State has preferred the present appeal under Section 378 of the Code of Criminal Procedure, 1973 ("the Code" for short).

2. The brief facts leading to the filing of the present appeal are as under:

2.1. The complainant, who is the nephew of the deceased, lodged a complaint alleging that on 28.02.1996 at about 21:00 hours, while proceeding with the deceased and his wife to attend a condolence at a relative's place, a dispute arose over parking of a vehicle obstructing the path near bungalow No.64 in K.K. Nagar Society, Ghatlodiya, Ahmedabad. It was alleged that the respondents assaulted the deceased with fists and blows, and respondent No.1 struck the

deceased on the head with a stone, leading to injuries from which the deceased succumbed. The complainant and the deceased's wife also claimed to have been assaulted. The complaint was registered under the aforementioned sections at Ghatlodiya Police Station, bearing CR No.I-70/1996. After investigation, a charge sheet was filed before the Chief Judicial Magistrate, Ahmedabad Rural, registered as Criminal Case No.1796/1996.

2.2. As the Chief Judicial Magistrate lacked jurisdiction to try the offence under Section 302 IPC, the case was committed to the Sessions Court, Ahmedabad Rural vide order dated 05.08.1996 and registered as Sessions Case No.127/1996 for trial. Upon conclusion of the prosecution evidence, the learned Sessions Court put various incriminating circumstances appearing in the evidence to the respondent-accused for their explanation under Section 313 of the Code. In their further statements, the respondent-accused denied all the incriminating circumstances as false and stated that they are innocent and have been falsely implicated. After examining the oral and documentary evidence and the submissions from both sides, the learned Sessions Court recorded a finding in favour of the respondent-accused and acquitted them of all charges.

3. We have heard the learned advocates for the respective parties and carefully examined the oral and documentary evidence adduced before the learned Sessions Court. During the course of the trial, the prosecution examined a total of 11 witnesses. The details of the oral and documentary evidence are as under:

~:: Oral Evidence ::~

P.W. No.

Particular

Exh.

1.

Sumanbhai Ramanlal Kothari

13

2.

Dr. Babubhai Ambalal Patel

14

3.

Jagdishbhai Narmdashankar

18

4.

Ailiyamma Philip

21

5.

Anandprakash Rasikbhai Acharya

22

6.

Jashodaben Indravadanbhai Acharya

25

7.

Dy.S.P. Parmeshwarprasad Sarvajeet

35

8.

Dr. Ghanshyambhai Chunilal Patel

37

9.

P.S.O. Balabhai Devabhai Parmar

46

10.

Jashvantbhai Hartaji

48

11.

Dr. Ravindra Shrikrushna Bhinse

28

~:: Documentary Evidence ::~

Sr. No.

Particular

Exh.

1.

Original Complaint

23

2.

Slip regarding rows of bricks

19

3.

Panchnama of place of incident

20

4.

Yadi from Ghatlodia Police Station

29

5.

Reply to yadi from Dr. Desai

30

6.

PM Notes

31

7.

Inquest Panchnama

24

8.

Panchnama of clothes of deceased

38

9.

Charge Frame

26

10.

FSL Receipt

27

11.

Muddamal dispatch report

28

12.

Sketch of place of incident

29

13.

Letter to FSL

30

14.

FSL Report

31

15.

Opinion regarding reasons of death

32

16.

Further opinion

30

17.

Complaint of Atul Vinayak

36

18.

Medical certificate of Anand Rasiklal

38

19.

Medical certificate of Atul Vinayak

39

20.

Medical certificate of Vinayak Bhavsahab

40

21.

Medical certificate of Jitendra Vinayak

41

22.

4. The learned APP appearing for the appellant – State, submitted that the impugned judgment requires interference, primarily relying upon the deposition of the complainant examined as (PW-5, Exh.-22) and the deceased's wife as (PW-6, Exh.-25). Their testimonies, according to the prosecution, establish the assault on 28.02.1996 at about 21:00 hours, leading to the death of the deceased due to head injury caused by a stone, as supported by the post-mortem note (Exh.-31). It is not in dispute that the deceased suffered a head injury and was declared dead at the spot, as corroborated by the medical evidence of Dr. Babubhai Ambalal Patel (PW-2, Exh.-14). Hence, it was contended that the learned Sessions Court erred in acquitting the accused.

4.1. The learned APP further submitted that the evidence of other material witnesses corroborates the prosecution case and, therefore, the acquittal warrants interference and conviction of the respondent-accused.

5. The learned Advocate for the respondent-accused Nos.2 to 6 submitted that the impugned judgment does not call for any interference. He contended that the testimonies of the complainant (PW-5, Exh.-22) and the deceased's wife (PW-6, Exh.-25) are unreliable due to inconsistencies with the medical evidence, as the post-mortem note (Exh.-31) attributes death to natural causes involving cardio-respiratory failure and intra-cerebral hemorrhage following pathology in the brain and heart. Several witnesses, including Sumanbhai Ramanlal Kothari (PW-1, Exh.-13) and Ailiyamma Philip (PW-4, Exh.-21), turned hostile and did not support the prosecution. It was further submitted that no independent witnesses corroborated the assault, no weapon was recovered matching the injury, and the FSL reports (Exh.-31 and Exh.-32) do not link the accused to the deceased's blood. Hence, in absence of any evidence proved beyond reasonable doubt, the acquittal is justified.

6. Having heard the learned advocates for both sides and perused the depositions of the witnesses, documentary evidence, and the judgment of the Sessions Court, it appears that the testimonies of the complainant and the deceased's wife, who are the alleged eyewitnesses, lack credibility.

7. The prosecution case is mainly based on the statements of the complainant Anandprakash Rasikbhai Acharya (PW-5, Exh.-22) and the wife of the deceased, Jashodaben Indravadanbhai Acharya (PW-6, Exh.-25), who are said to be eyewitnesses to the incident. As per the complainant (PW-5, Exh.-22), on 28.02.1996 at about 21:00 hours, while he was going with the deceased and the deceased's wife to the house of a relative, an argument took place near bungalow No.64 in K.K. Nagar Society because a parked vehicle was blocking the way. He stated that during this dispute, the accused beat the deceased with fists and blows, and that accused No.1 (Vinayakbhai) hit the deceased on the head with a stone, causing injuries that resulted in his death. He also claimed that he

himself was beaten by the accused. However, the learned Sessions Court found his testimony unreliable because it did not match the medical evidence, there was no support from independent witnesses, and there was no proof connecting the alleged weapon to the injury. The learned Sessions Court noted that no independent witness supported the allegation of assault, no weapon was recovered that could be clearly connected to the injury, and the FSL reports did not link the accused with the blood of the deceased. After re-examining the evidence, we agree with the learned Sessions Court. The complainant's version appears exaggerated, as it does not fit with the postmortem report, which states that the death was due to natural causes and not because of an assault. The medical evidence also shows no serious injuries on the body that would normally be expected from a severe beating, which further weakens his version. In simple words, an prudent person would understand that the complainant's story does not match the doctors' scientific findings, making it difficult to accept that the accused intentionally caused the death.

8. Likewise, the deceased's wife Jashodaben Indravadanbhai Acharya (PW-6, Exh.-25) stated that the accused assaulted her husband with fists and blows, and that accused No.1 struck him on the head with a stone, after which he started bleeding and became unconscious. She further stated that her husband fell on a heap of concrete debris and that she took a Sorbitrate tablet from his pocket and placed it in his mouth. The learned Sessions Court pointed out inconsistencies in her testimony, especially because the medical evidence did not show fractures or serious injuries that would be expected from such blows. The court also noted that her act of giving a Sorbitrate tablet indicated that she was aware of her husband's existing heart condition. The learned Sessions Court further observed that no bloodstains were found either at the scene or on her clothes to support her claim of bleeding. We agree with this assessment. Although she described the sequence of events, her testimony does not explain how a minor head injury could cause death when the postmortem clearly showed serious brain and heart diseases as the real cause. It appears that her version, possibly influenced by emotional distress, does not prove a direct connection between the alleged assault and the death. In simple terms, her statement does not show that the stone blow caused her husband's death, especially when doctors concluded that the death was due to natural medical conditions affecting the brain and heart.

9. The medical evidence is the most important part of this case. Dr. Babubhai Ambalal Patel (PW-2, Exh.-14), who was the first doctor to examine the deceased at the spot, stated that when he checked the deceased, there was no pulse, no breathing, and no heartbeat, and he declared the deceased dead at the scene itself. He did not note any history of assault and initially treated the case as a non-medico-legal one. The learned Sessions Court rightly observed that if Dr. Babubhai Ambalal Patel (PW-2, Exh.-14) had suspected a homicidal injury, he would have reported it as a medico-legal case as per his duty. We agree with this view. His immediate opinion suggests a sudden natural death rather than death caused by injuries from an assault. His evidence also supports the absence of

external injuries indicating a violent beating.

10. Dr. Ravindra Shrikrushna Bhinse (PW-11, Exh.-28), Head of the Forensic Department, who examined the postmortem notes, stated that the postmortem revealed only a small abrasion on the head measuring 1.75 cm x 0.5 cm. He clearly opined that the cause of death was cardio-respiratory failure due to intra-cerebral hemorrhage resulting from disease of the brain and heart. He explained that the deceased had thickened heart walls, narrowing of coronary arteries due to atherosclerosis, and ruptured blood vessels in the brain causing subarachnoid hemorrhage. According to him, the head injury was superficial, not sufficient to cause death, and could have occurred due to a fall on a rough surface such as concrete debris. He further stated that excitement or high blood pressure could trigger such a natural event in a person with these existing health problems. The learned Sessions Court carefully examined this evidence and concluded that it ruled out homicidal death and clearly pointed to natural causes. After independent consideration, we agree with this conclusion. The expert medical opinion, supported by histopathology reports, clearly establishes that the death occurred due to long-standing heart and brain disease and not because of the alleged stone blow. For a prudent person, this means that medical tests proved the deceased died due to his own serious health issues, like a heart problem or brain hemorrhage, and not because someone hit him with enough force to kill him.

11. The postmortem report (Exh.-31) and the subsequent medical opinion (Exh.-30) given by Dr. D.S. Desai, who conducted the autopsy, initially kept the cause of death pending histopathology and later confirmed that the death was natural due to the same diseases. The learned Sessions Court noted that the injury found was not sufficient to cause death in the ordinary course and that there was no internal damage such as a skull fracture. We find no error in this assessment, as all the medical reports consistently rule out homicide and clearly point to natural death. The fact that no blood was found on the alleged weapon, namely the stone recovered from the scene, further supports this conclusion, as the FSL report (Exh.-31) did not match any blood group with that of the deceased.

12. Other witnesses also do not support the prosecution case. Sumanbhai Ramanlal Kothari (PW-1, Exh.-13), who informed the police by telephone, stated that he heard about a quarrel over parking and saw the dead body of the deceased, but he did not see the assault. He turned hostile and did not support the prosecution. The learned Sessions Court treated him as hostile and found his testimony useless for proving the alleged assault. We see no reason to disagree, as his evidence only shows that a dispute occurred, not that a violent attack caused the death.

13. Ailiyamma Philip (PW-4, Exh.-21), a nurse who tried to massage the chest of the deceased, stated that she saw people gathered and the deceased lying unconscious, but she did not witness the assault and could not identify the

accused. She also turned hostile. The learned Sessions Court rejected her evidence due to lack of support. We agree, as her presence after the incident does not help prove the prosecution's claim of a deliberate fatal assault.

14. Independent witness Jagdishbhai Narmdashankar (PW-3, Exh.-18), who acted as a panch witness for the scene panchnama, stated that a bloodstained stone and other articles were recovered from the place of incident. However, the learned Sessions Court observed that the panchnama (Exh.-20) did not record measurements of the debris or the road, and the FSL report did not connect the stone with the blood of the deceased. We agree that this evidence is only circumstantial and does not prove that the stone was used as a murder weapon, especially when the injury could also be caused by a fall.

15. The Investigating Officer, Dy.S.P. Parmeshwarprasad Sarvajeet (PW-7, Exh.-35), explained the steps taken during investigation, including registration of the FIR, preparation of panchnamas, and sending articles to FSL. During cross-examination, he admitted that he did not collect control soil samples, blood from the scene, or bloodstained clothes of witnesses, and that he did not investigate the heart condition of the deceased. The learned Sessions Court found these lapses serious and held the investigation to be defective. After reviewing the record, we agree that these omissions are important and they weaken the prosecution case by leaving major gaps in proving that the assault caused the death. In simple terms, the police failed to collect important evidence, such as blood samples from the spot, which could have clarified whether the injury was caused by an attack or by a fall.

16. The documentary evidence, including the inquest panchnama (Exh.-24), FSL reports (Exh.-31 and Exh.-32), and medical certificates of injuries sustained by the accused (Exh.-39, Exh.-40, Exh.-41), shows that the accused themselves had injuries, which the prosecution has not explained. The learned Sessions Court therefore inferred that there may have been a mutual scuffle and that the deceased might have collapsed due to his existing health problems. We find this inference reasonable. The injuries on the accused indicate that the incident was not a one-sided brutal attack but possibly a minor altercation followed by the deceased's natural collapse.

17. The appellant-State argued that the learned Sessions Court wrongly ignored the eyewitness accounts and relied too heavily on medical evidence suggesting natural death. However, after considering the entire material on record, we find that the learned Sessions Court adopted a balanced and reasoned approach. The medical evidence clearly and strongly points to natural causes such as pre-existing atherosclerosis, an enlarged heart, and cerebral hemorrhage, which may have been triggered by excitement during the quarrel, and not by the minor head injury. The lack of supporting evidence, serious lapses in investigation, and contradictions in the prosecution witnesses fully justify the order of acquittal.

18. In conclusion, the view taken by the learned Sessions Court is a reasonable

and possible view based on the evidence on record. There is no perversity or incorrect appreciation of evidence that calls for interference. The appellant has not shown that the acquittal has caused any serious miscarriage of justice. Therefore, the appeal has no merit and deserves to be dismissed.

19. At this stage, this Court may refer to the decision of the Hon'ble Apex Court in the case of *Rajesh Prasad v. State of Bihar and Another* [(2022) 3 SCC 471] encapsulated the legal position covering the field after considering various earlier judgments and held as below: -

"29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order acquittal in the following words: (*Chandrappa case* [*Chandrappa v. State of Karnataka*, (2007) 4 SCC 415])

"42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappraise and reconsider the evidence upon which the order of acquittal is founded.

(2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the learned Sessions 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 learned Sessions Court."

20. In the case of *H.D. Sundara & Ors. v. State of Karnataka* [(2023) 9 SCC 581] the Hon'ble Apex Court has 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 learned Sessions 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."

21. In light of the above legal position and for the reasons recorded in the foregoing paragraphs, coupled with the fact that the case of the prosecution does not get support from the evidence recorded by the learned Sessions Court, the present appeal fails and is accordingly dismissed. Records and Proceedings, if any, be remitted to the Court concerned forthwith.