



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL APPEAL NO. 507 of 2008
With
CRIMINAL MISC.APPLICATION (FOR JOINING PARTY) NO. 1 of 2023
In
R/CRIMINAL APPEAL NO. 507 of 2008**

FOR APPROVAL AND SIGNATURE :

HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Sd/-

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?	No
2	To be referred to the Reporter or not ?	No
3	Whether their Lordships wish to see the fair copy of the judgment ?	No
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	No

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STATE OF GUJARAT
Versus
RAVAL DASHRATHBHAI MAFABHAI & ORS.

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Appearance:

MR HARDIK SONI, ADDITIONAL PUBLIC PROSECUTOR for the

Appellant(s) No. 1

HCLS COMMITTEE(4998) for the Opponent(s)/Respondent(s) No. 1,2,3

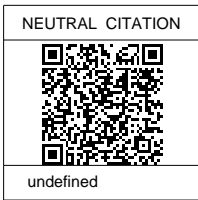
MR.DARSHAN A. DAVE(7921) for the Opponent(s)/Respondent(s) No. 1,2,3

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CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

**Date : 16/05/2024
ORAL JUDGMENT**

1. It appears that during the pendency of the present Appeal, the complainant has expired. The same

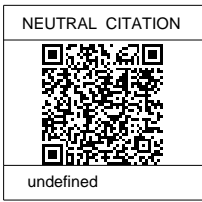


has been noted by this Court vide order dated 11.09.2023.

2. By way of this Appeal, the Appellant – State has felt aggrieved by the judgment and order of acquittal dated 08.06.2007 passed by the learned Special Judge, Atrocity, Mahesana in Special Atrocity Case No.13 of 2007 whereby the respondents were acquitted for the offences punishable under Sections read with Sections 323, 504 and 506(2) of the Indian Penal Code (IPC), under Section 3(1)(10) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to in short as ‘the Atrocities Act’) and under Section 184 of the G.P. Act.

3. The case of the prosecution is as under :-

2.1. On 28.07.2006, the accused persons left their cattle for grazing in the field of Vankar Backward Class Cooperative Agriculture Mandali bearing Survey No.179. At about 9.00 a.m. in the morning, when the complainant went into the field, he saw the cattle of the accused grazing in the field and therefore,



rebuked the accused. It is alleged that hence, the accused No.1 and the accused No.3 got provoked, attacked the complainant by holding weapons and inflicted fist blows on the stomach of the complainant and at that juncture, Dhanjibhai Ramabhai Sadabhai and Thakore Ajmalji came there and saved the complainant from further blows. It is further alleged that the accused persons gave filthy abuses and threatened the complainant with his life. Therefore, the complainant lodged a complaint with Kadi Police Station against the accused persons under the above Sections.

2.2. On the basis of the complaint filed, the investigation commenced. Since it was a Sessions triable case, the learned Judicial Magistrate First Class committed the case to the Court of Sessions and placed for trial before the learned Special Judge (Atrocity). Charges were led against all the original accused under the above Sections and after conclusion of the trial, the accused were acquitted.

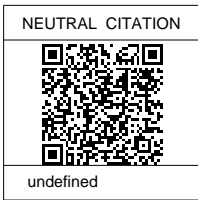


2.3. At the time of the trial, the prosecution examined the following witnesses :-

Particulars	Exh.
Ramsanghji Gandaji Thakore (Panch Witness)	6
Sadabhai Lalabhai Makwana (Complainant)	8
Naginbhai Jivabhai Makwana (Panch Witness)	13
Ramabhai Sadabhai Makwana	15
Ajmalji Juhabhai Vaghela	16
Ishwarbhai Juhabhai Vaghela	17
Mayanksinh Ajitsinh Chavda (Investigating Officer)	21
Dr. Bakul Prabhubhai Patel (Medical Officer)	22

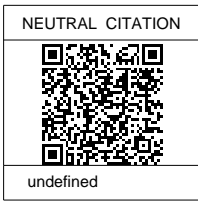
The prosecution also relied upon various documentary evidences, some of them are :-

Particulars	Exh.
Panchnama of scene of offence	7
Original Complaint	9
Caste Certificate of the complainant	10
8/A Extract of Sadra Gram Panchayat	11
7/12 Extract of Sadra Gram Panchayat	12
Panchnama of the clothes of the complainant	14
Order of Depute	18
Position of the body of the accused persons	19-20
Closing of the stage of evidence after filing of the Pursis in this regard by the learned Additional Public Prosecutor.	24



2.4. At the end of the trial, further statement of the accused under Section 313 of the Code of Criminal Procedure was recorded in which the respondents pleaded not guilty and stated that they have been falsely implicated in the offence. Thus, after recording the further statement of the accused and hearing the arguments of both the sides, the learned Additional Sessions Judge passed the above judgment and order. Being aggrieved by the same, the present Appeal has been filed by the State, as aforesaid.

4. Learned Additional Public Prosecutor Mr. Hardik Soni for the appellant – State that the competent Court has erred in having failed to appreciate the oral evidence and the witnesses which have been examined by the prosecution as well as the documentary evidence in support of the case. It is further submitted that the competent Court has passed the impugned judgment and order without appreciating the evidence and has erroneously acquitted the accused for the alleged offences. It is further submitted that the learned Judge has erred in



holding that the prosecution has failed to prove beyond reasonable doubt that on 28.07.2006 at about 9.00 a.m. in the morning, the accused intentionally caused harm to the complainant with the help of each other and the accused are not liable to be punished for the offences punishable under Sections 323, 504 and 506(2) of the IPC.

5. It is further submitted that the PW-4 Ramabhai Sadabhai Makwana was examined at Exhibit 15 and PW-5 Ajmalji Dhulaji Thakore was examined at Exhibit 16, who were the witnesses to the incident, however, their evidence was also disbelieved by the competent Court. The Caste Certificate produced at Exhibit 10 has also been disbelieved. The Injury Certificate at Exhibit 22 supports the case of the prosecution. It is also submitted that in light of the Caste Certificate produced at Exhibit 10, the offence is stated to have been committed by the accused persons under Section 3(1)(10) of the Atrocities Act. It is further submitted that the competent Court failed to appreciate the evidence of the Medical Officer – Dr. Bakul Prabhubhai Patel who was examined at

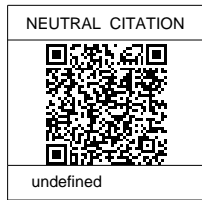
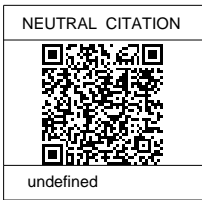


Exhibit 22. Placing reliance on the aforesaid submissions, it is submitted that the competent Court erred in passing the impugned judgment and order and acquitting the accused. Considering the above, it is submitted that this is a fit case which requires interference of this Court and the judgment and order of the learned Judge qua the acquittal of the respondents should be overturned by this Court.

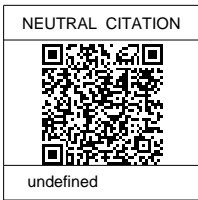
6. Per contra, learned Advocate for the respondents Mr. Darshan A. Dave submitted that no error has been committed by the learned Judge, in light of the fact that the complainant in the cross examination, on his own volition submitted that the complaint has been filed by the representative of the Vankar Backward Class Cooperative Agriculture Mandali to the concerned Police Station. It is further submitted that the complainant and the accused persons were present. It is also stated that in the cross examination of the the complainant, it was stated that on the earlier occasion, there was no scuffle between the complainant and the accused persons and further it was stated that the accused had not given any filthy abuses and also that the injuries were received on



account of the fall suffered. It is further submitted that the learned Judge was right in holding that the Panchnama of the clothes only shows the reply to the torn clothes (jabba), however, there is on evidence on record as to how the same was burnt. There is no evidence with respect to the eye witnesses who have deposed with regard to the occurrence of the incident to put the accused within the ambit of Sections 323, 504 and 506(2) of the IPC. It is further submitted that the prosecution has successfully proved its case beyond reasonable doubt. Considering the above, it is submitted that this is a fit case which requires interference of this Court and the judgment and order of the learned Judge qua the acquittal of the respondents should be overturned by this Court.

7. In the case of **M.S. Narayana Menon @ Mani Vs. State of Kerala & Anr**, reported in **(2006) 6 S.C.C. 39**, the Apex Court has narrated about the powers of the High Court in appeal against the order of acquittal. In para 54 of the decision, the Apex Court has observed as under :-

“54. In any event the High Court entertained an appeal treating to be an appeal against acquittal, it



was in fact exercising the revisional jurisdiction. Even while exercising an appellate power against a judgment of acquittal, the High Court should have borne in mind the well-settled principles of law that where two views are possible, the appellate Court should not interfere with the finding of acquittal recorded by the Court below.”

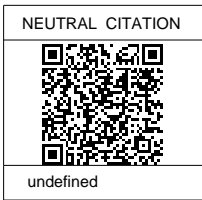
8. Further, in the case of **Chandrappa Vs. State of Karnataka** reported in **(2007) 4 S.C.C. 415**, the Apex Court laid down the following principles :

“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, re-appreciate 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



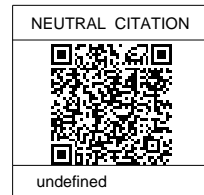
curtail the power of the Court to review the evidence and to come to its own conclusion.

[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 is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent Court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial Court.

[5] If two reasonable conclusions are possible on the basis of the evidence on record, the appellate Court should not disturb the finding of acquittal recorded by the trial Court.”

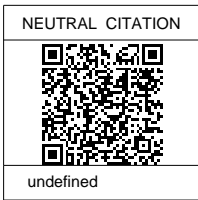
9. Thus, it is a settled principle that while exercising appellate power, even if two reasonable conclusions are possible on the basis of the evidence on record, the appellate Court should not disturb the finding of acquittal recorded by the Trial Court.

10. Even in the case of **State of Goa V. Sanjay Thakran & Anr.** reported in **(2007) 3 S.C.C. 75**, the Apex Court has reiterated the powers of the High Court in such cases. In para 16 of the said decision, the Court has observed as under :-



“16. From the aforesaid decisions, it is apparent that while exercising the powers in appeal against the order of acquittal the Court of appeal would not ordinarily interfere with the order of acquittal unless the approach of the lower Court is vitiated by some manifest illegality and the conclusion arrived at would not be arrived at by any reasonable person and, therefore, the decision is to be characterized as perverse. Merely because two views are possible, the Court of appeal would not take the view which would upset the judgment delivered by the Court below. However, the appellate Court has a power to review the evidence if it is of the view that the conclusion arrived at by the Court below is perverse and the Court has committed a manifest error of law and ignored the material evidence on record. A duty is cast upon the appellate Court, in such circumstances, to re-appreciate the evidence to arrive to a just decision on the basis of material placed on record to find out whether any of the accused is connected with the commission of the crime he is charged with.”

11. Similar principle has been laid down by the Apex Court in the cases of **State of Uttar Pradesh Vs. Ram Veer Singh & Ors** reported in **2007 A.I.R. S.C.W. 5553** and in **Girja Prasad (Dead) by LRs Vs. State of MP** reported in **2007 A.I.R. S.C.W. 5589**. Thus, the powers, which this Court may exercise against an order of acquittal, are well settled.



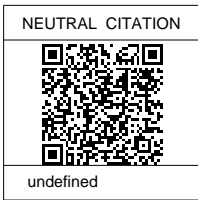
12. In the case of **Luna Ram Vs. Bhupat Singh and Ors**, reported in **(2009) SCC 749**, the Apex Court in para 10 and 11 has held as under :-

“10. The High Court has noted that the prosecution version was not clearly believable. Some of the so-called eye witnesses stated that the deceased died because his ankle was twisted by an accused. Others said that he was strangulated. It was the case of the prosecution that the injured witnesses were thrown out of the bus. The doctor who conducted the post-mortem and examined the witnesses had categorically stated that it was not possible that somebody would throw a person out of the bus when it was in running condition.

11. Considering the parameters of appeal against the judgment of acquittal, we are not inclined to interfere in this appeal. The view of the High Court cannot be termed to be perverse and is a possible view on the evidence.”

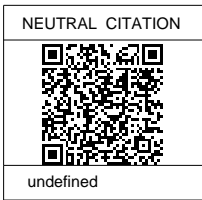
13. Even in a decision of the Apex Court in the case of **Mookkiah and Anr. Vs. State, rep. by the Inspector of Police, Tamil Nadu**, reported in **AIR 2013 SCC 321**, the Apex Court in para 4 has held as under :-

“4. It is not in dispute that the trial Court, on appreciation of oral and documentary evidence led in by the prosecution and defence, acquitted the accused in respect of the charges leveled against them. On appeal by the State, the High Court, by impugned



order, reversed the said decision and convicted the accused under Section 302 read with Section 34 of IPC and awarded RI for life. Since counsel for the appellant very much emphasized that the High Court has exceeded its jurisdiction in upsetting the order of acquittal into conviction, let us analyze the scope and power of the High Court in an appeal filed against the order of acquittal. This Court in a series of decisions has repeatedly laid down that as the first appellate court the High Court, even while dealing with an appeal against acquittal, was also entitled, and obliged as well, to scan through and if need be re-appreciate the entire evidence, though while choosing to interfere only the court should find an absolute assurance of the guilt on the basis of the evidence on record and not merely because the High Court could take one more possible or a different view only. Except the above, where the matter of the extent and depth of consideration of the appeal is concerned, no distinctions or differences in approach are envisaged in dealing with an appeal as such merely because one was against conviction or the other against an acquittal. [Vide State of Rajasthan vs. Sohan Lal and Others, (2004) 5 SCC 573].”

14. It is also a settled legal position that in acquittal appeal, the appellate Court is not required to re-write the judgment or to give fresh reasonings, when the reasons assigned by the Court below are found to be just and proper. Such principle is laid down by the Apex Court in the case of **State of Karnataka Vs.**



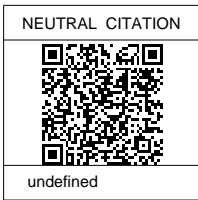
Hemareddy, reported in AIR 1981, SC 1417, wherein it is held as under :-

“This Court has observed in *Girija Nandini Devi V. Bigendra Nandini Choudhary* (1967) 1 SCR 93:(AIR 1967 SC 1124) that it is not the duty of the Appellate Court on the evidence to repeat the narration of the evidence or to reiterate the reasons given by the trial Court expression of general agreement with the reasons given by the Court the decision of which is under appeal, will ordinarily suffice.”

15. Similar principle has been laid down by the Apex Court in the case of **Shivasharanappa and Ors Vs. State of Karnataka**, reported in **JT 2013(7) SC 66**.

16. At this stage, this Court would like to refer to the decision dated 02.04.2024 of the Hon'ble Apex Court in the case of **Ballu @ Balram @ Balmukund and Anr. Vs. State of Madhya Pradesh** passed in Criminal Appeal No.1167 of 2018. In above decision, it was held as under :-

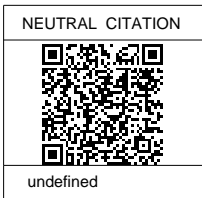
“7. It can thus clearly be seen that it is necessary for the prosecution that the circumstances from which the conclusion of the guilt is to be drawn should be fully established. The Court holds that it is a primary principle that the accused ‘must be’ and not merely ‘may be’ proved guilty before a court can convict the accused. It has been held that there is not only a



grammatical but a legal distinction between ‘may be proved’ and ‘must be or should be proved’. It has been held that the facts so established should be consistent only with the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty. It has further been held that the circumstances should be such that they exclude every possible hypothesis except the one to be proved. It has been held that there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probabilities the act must have been done by the accused.

8. It is settled law that the suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent unless proved guilty beyond a reasonable doubt.

9. Apart from that, it is to be noted that the present case is a case of reversal of acquittal. The law with regard to interference by the Appellate Court is very well crystallized. Unless the finding of acquittal is found to be perverse or impossible, interference with the same would not be warranted. Though, there are a catena of judgments on the issue, we will only refer to two judgments which the High Court itself has reproduced in the impugned judgment, which are as reproduced below :-

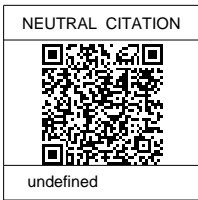


“13. In case of **Sadhu Saran Singh vs. State of U.P. (2016) 4 SCC 397**, the Supreme Court has held that :-

"In an appeal against acquittal where the presumption of innocence in favour of the accused is reinforced, the appellate Court would interfere with the order of acquittal only when there is perversity of fact and ! aw. However, we believe that the paramount consideration of the Court is to do substantial justice and avoid miscarriage of justice which can arise by acquitting the accused who is guilty of an offence. A miscarriage of justice that may occur by the acquittal of the guilty is no less than from the conviction of an innocent. Appellate Court, while enunciating the principles with regard to the scope of powers of the appellate Court in an appeal against acquittal, has no absolute restriction in law to review and relook the entire evidence on which the order of acquittal is founded."

14. Similar, In case of **Harljan Bhala Teja vs. State of Gujarat (2016) 12 SCC 665**, the Supreme Court has held that :-

"No doubt, where, on appreciation of evidence on record, two views are possible, and the trial court has taken a view of acquittal, the appellate court should not interfere with the same. However, this does not mean that in all the cases where the trial court has recorded acquittal, the same should not be interfered with, even if the view is perverse. Where the view taken by the trial court is against the weight of evidence on record, or perverse, it is always open far



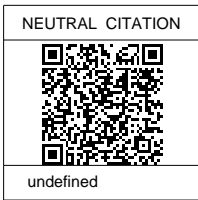
the appellate court to express the right conclusion after reappreciating the evidence. If the charge is proved beyond reasonable doubt on record, and convict the accused."

17. In the case of **Hitesh Verma v. State of Uttarakhand and Another** reported in **(2020) 10 SCC 710**, the Hon'ble Apex Court held as under :-

"8. Against the backdrop of these facts, it is pertinent to refer to the Statement of Objects and Reasons of enactment of the Act. It is provided as under :-

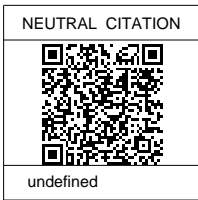
"Statement of Objects and Reasons. - Despite various measures to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes, they remain vulnerable. They are denied number of civil rights. They are subjected to various offences, indignities, humiliations and harassment. They have, in several brutal incidents, been deprived of their life and property. Serious crimes are committed against them for various historical, social and economic reasons.

2. Because of the awareness created amongst the Scheduled Castes and the Scheduled Tribes through spread of education, etc., they are trying to assert their rights and this is not being taken very kindly by the others. When they assert their



rights and resist practices of untouchability against them or demand statutory minimum wages or refuse to do any bonded and forced labour, the vested interests try to cow them down and terrorise them. When the Scheduled Castes and the Scheduled Tribes try to preserve their self-respect or honour of their women, they become irritants for the dominant and the mighty. Occupation and cultivation of even the Government allotted land by the Scheduled Castes and the Scheduled Tribes is resented and more often these people become victims of attacks by the vested interests. Of late, there has been an increase in the disturbing trend of commission of certain atrocities like making the Scheduled Caste persons eat inedible substances like human excreta and attacks on and mass killings of helpless Scheduled Castes and the Scheduled Tribes and rape of women belonging to the Scheduled Castes and the Scheduled Tribes. Under the circumstances, the existing laws like the [Protection of Civil Rights Act, 1955](#) and the normal provisions of the [Indian Penal Code](#) have been found to be inadequate to check these crimes. A special Legislation to check and deter crimes against them committed by non-Scheduled Castes and non-Scheduled Tribes has, therefore, become necessary.”

9. The long title of the Act is to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts and Exclusive



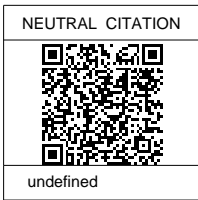
Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

10. [The Act](#) was enacted to improve the social economic conditions of the vulnerable sections of the society as they have been subjected to various offences such as indignities, humiliations and harassment. They have been deprived of life and property as well. The object of the Act is thus to punish the violators who inflict indignities, humiliations and harassment and commit the offence as defined under [Section 3](#) of the Act. [The Act](#) is thus intended to punish the acts of the upper caste against the vulnerable section of the society for the reason that they belong to a particular community.

11. It may be stated that the charge-sheet filed is for an offence under [Section 3\(1\)\(x\)](#) of the Act. The said section stands substituted by Act No. 1 of 2016 w.e.f. 26.1.2016. The substituted corresponding provision is [Section 3\(1\)\(r\)](#) which reads as under :

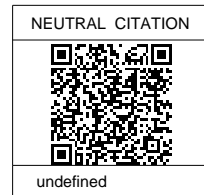
“3(1)(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;”

12. The basic ingredients of the offence under [Section 3\(1\)\(r\)](#) of the Act can be classified as “1) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe and 2) in any place within public view”.



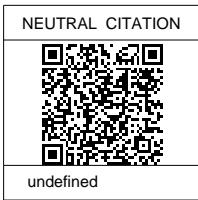
13. The offence under [Section 3\(1\)\(r\)](#) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the Society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that respondent No.2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that respondent No.2 is member of Scheduled Caste.

14. Another key ingredient of the provision is insult or intimidation in “any place within public view”. What is to be regarded as “place in public view” had come up for consideration before this Court in the judgment reported as [Swaran Singh & Ors. v.](#)



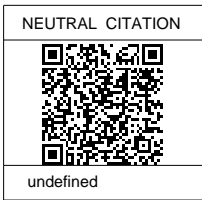
State through Standing Counsel & Ors.5. The Court had drawn distinction between the expression “public place” and “in any place within public view”. It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen 5 (2008) 8 SCC 435 by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not in the public view. The Court held as under :

“28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a “chamar”) when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We

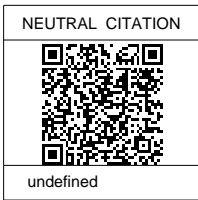


must, therefore, not confuse the expression “place within public view” with the expression “public place”. A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.”

18. I have heard learned Advocates for the parties and perused the records of the case. While going through the well reasoned judgment and order of the learned Special Judge, it clearly emerges especially from the deposition of PW-8 the original complainant, in the cross-examination, wherein the complainant admits that such words / filthy abuses were never alleged to have been spoken by the accused. Further, the complainant himself states that there was no struggle between the parties on the land which belongs to the Vankar Backward Class Cooperative Agriculture Mandali and the complainant was just tilling the land. In addition, PW-15 Ramabhai Sadabhai Makwana, in his cross examination has stated that the fight went on for one hour and during



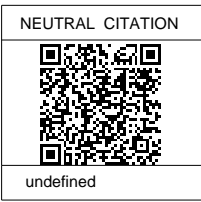
this period, there were only the four panchas and no one else. This witness has also stated that it is not true that there were frequent quarrels on the aspect of grazing. The accused – Rajabhai is then alleged to have given threats to the life of the complainant. This witness further admits that the testimony is given not because the complainant belongs to his family. Exhibit 12 is the 7/12 Extract of Sadra Gram Panchayat which reveals that the land is in the name of the Vankar Backward Class Cooperative Agriculture Mandali. Thus, it is rightly held by the learned Special Judge that such words which would fall under Section 3(1)(10) of the Atrocities Act were never uttered by the accused. Similarly, the learned Judge also held that Section 506(2) of the IPC could not be invoked as there was no intentional insult qua the accused. Further, Exhibit 14 - Panchnama of the clothes of the complainant does not reveal any signs that the complainant was beaten by the accused as alleged or there was a scuffle between the accused and the complainant. In addition, it is required to be noted that the complaint was written by the Secretary of the Vankar Backward



Class Cooperative Agriculture Mandali and was filed by the complainant. Therefore, in the above scenario, benefit of doubt is required to be granted to the accused, as the complaint is filed at the behest of the Secretary of the Vankar Backward Class Cooperative Agriculture Mandali.

19. Hence, this Court is in full agreement with the reasons given and findings recorded by the Trial Court while acquitting the accused, especially at Paragraphs 14, 15, 16 and 17 of the impugned judgment and order and adopting the said reasons as well as the reasons aforesaid as well as considering the ratio laid down in the above decisions, in my view, the impugned Judgment and order is just, legal and proper and requires no interference by this Court.

20. The Appeal is devoid of merits and stands dismissed. The judgment and order of acquittal dated 08.06.2007 passed by the learned Special Judge, Atrocity, Mahesana in Special Atrocity Case No.13 of 2007 stands confirmed. Bail and bail bond,



stands cancelled. Record and proceedings be sent to the concerned Trial Court forthwith.

21. In view of the above, the above Criminal Miscellaneous Application stands disposed of accordingly.

CAROLINE

Sd/-
(VAIBHAVI D. NANAVATI, J)