IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST ACQUITTAL) NO. 2301 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA sd/-

and
HONOURABLE MR. JUSTICE R. T. VACHHANI sd/-

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Approved for Reporting	Yes	No
		no

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STATE OF GUJARAT
Versus
DINESH @ LOT SHRAVAN SONKAR

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Appearance:
MR LB DABHI ADDITIONAL PUBLIC PROSECUTOR for the Appellant(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 16/10/2026

ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE R. T. VACHHANI)

1. Being aggrieved and dissatisfied by the judgment and order dated 09.04.2026 passed by the learned Principal District and Sessions Judge, Navsari in Sessions Case No.101 of 2023, whereby the learned Sessions Judge, by extending benefit of doubt in exercise of powers under Section 235(1) of the Criminal Procedure Code (for short, 'Cr.P.C.'), 1973, acquitted the accused

of the offences punishable under Section 302 of the Indian Penal Code (for short, 'I.P.C.'), 1860 and Section 135 of the Gujarat Police Act (for short, 'G.P. Act'), 1951, the present appeal under Section 419(4) of the Bharatiya Nagarik Suraksha Sanhita (for short, 'BNSS'), 2023 has been preferred by the appellant herein.

2. For brevity and convenience, the parties are referred to as per their original status before the learned Sessions Court.

2.1 Brief facts of the case are as under:

3. The respondent-accused, Dinesh alias Lot Shravan Sonkar, has an elder sister, Mamta alias Guddi Shravan Sonkar. Prior to her marriage, she was in a relationship with Dharmendra, the deceased, who is the elder brother of the complainant, Chhotu Shivkumar Sonkar. That relationship had earlier led to an altercation and quarrel between the parties. It is the case of the prosecution that the respondent-accused harbored enmity on that account.

3.1 According to the prosecution, on 03.07.2023, between 15:45 hours and 16:10 hours, the deceased Dharmendra was standing near his Honda Unicorn vehicle at the door of Banaras Laundrywala. At that time, the respondent-accused suddenly arrived on his motorcycle and, with a knife in his possession, inflicted stab injuries on the deceased in the lower part of the left rib and on the back. The deceased, having sustained grievous injuries, bled profusely and succumbed to them.

3.2 The complainant lodged a complaint regarding the incident against the respondent-accused on 03.07.2023 at Vijalpore

Police Station, which came to be registered as Part-A C.R. No.11822022230402 of 2023 for the offences punishable under Section 302 of the I.P.C. and Section 135 of the G.P. Act. The investigation was entrusted to the concerned Investigating Officer, who, after investigation in accordance with the provisions of Sections 154 to 172 of the Cr.P.C. filed a charge-sheet against the respondent-accused for the aforesaid offences before the learned 4th Additional Chief Judicial Magistrate, Navsari. The same was registered on 30.09.2023 as Criminal Case No.10381 of 2023. As the offence was exclusively triable by a Court of Session, the learned 4th Additional Chief Judicial Magistrate, Navsari, committed the case to the Court of Session by order dated 09.10.2023, and it was registered on 13.10.2023 as Sessions Case No.101 of 2023 before the learned Sessions Court.

3.3 In the course of the trial, after ensuring that the respondent-accused had been furnished free of cost with copies of the police papers, the learned Sessions Court framed the charge against the respondent-accused at Exhibit 21 on 02.09.2025 under Section 228(1)(b) of the Cr.P.C. for the offences punishable under Section 302 of the I.P.C. and Section 135 of the G.P. Act. The statement of the respondent-accused was recorded at Exhibit 22, wherein he pleaded not guilty and claimed to be tried. The prosecution evidence was thereafter recorded in terms of Section 231(1) of the Cr.P.C.. Upon conclusion of the trial, the learned Sessions Court, by the impugned judgment and order, acquitted the respondent-accused of the offences punishable under Section 302 of the I.P.C. and Section 135 of the G.P. Act by extending the benefit of

doubt in exercise of powers under Section 235(1) of the Cr.P.C..

3.4 Being aggrieved, the appellant has preferred the present appeal.

4. Submissions made on behalf of the appellant are as under:

4.1 It is submitted that the learned Sessions Court has committed a grave error of law in discarding the CCTV footage, which is the most crucial and objective piece of evidence in the case. PW-9, Priteshbhai Prakashbhai Sonvane (Exhibit 47), a computer and CCTV repair technician, has categorically deposed that he had extracted the footage from the DVR of a camera installed near the place of occurrence into a pen drive and handed it over to the police. The learned Sessions Court not believed his testimony and the certificate (Exhibit 48) because of his admission in cross-examination that he had not viewed the contents of the footage and that the certificate was typed by the police.

4.2 It is submitted that the role of PW-9 was purely technical, namely, to extract the electronic record from the DVR to the pen drive, and there is no requirement in law that such a person must view the contents in order to certify the mechanical process of extraction. PW-9 has owned his signature on the certificate and has stood by the factum of extraction. The mere fact that the police supplied the blank pen drive or typed the format of the certificate does not vitiate the integrity of the electronic record.

4.3 The learned Sessions Court has taken a hyper-technical view in discarding the seizure of the pen drive (Exhibit 26) solely

on the ground that the Panch witnesses turned hostile. It is a settled principle that the evidence of the Investigating Officer, PW-11 Karansinh Dilipsinh Mandora, and of the technical witness, PW-9, is sufficient to prove the seizure and extraction of electronic evidence. The hostility of Panch witnesses does not, by itself, render the recovery fatal to the prosecution case. Further, the learned Sessions Court has altogether ignored the FSL report and the certificate under Section 65B(4)(c) of the Indian Evidence Act, 1872 (Exhibit 65) produced by the Investigating Officer, which corroborate the integrity of the footage. By discarding the footage at the threshold on a flawed understanding of the certification of electronic evidence, the learned Sessions Court has occasioned a miscarriage of justice.

4.4 The learned Sessions Court has failed to correlate the medical evidence with the case of the prosecution. PW-6, Dr. Hinaben Himmatbhai Patel (Exhibit 39), who conducted the post-mortem, has opined that the death was due to hemorrhagic shock resulting from stab wounds. The Post-Mortem Note (Exhibit 40) and the Cause of Death Certificate (Exhibit 41) establish a homicidal death caused by a weapon such as a knife (*chhara*), which fully corroborates the narrative of the assault.

4.5 Undue reliance has been placed on the fact that the informant, Chhotu Shivkumar Sonkar (PW-5), and the other brother of the deceased, Rajeshbhai Shivkumar Sonkar (PW-8), turned hostile. Where eyewitnesses or close relatives are won over by the accused, the Court is duty-bound to scrutinize the objective scientific and electronic evidence with greater care. The CCTV footage is an unblinking witness to the crime, and its

erroneous rejection has enabled the respondent-accused to escape the course of law despite a brutal murder committed in broad daylight.

4.6 The prosecution has established a complete chain of circumstances, namely, the motive arising from the prior dispute involving the sister of the respondent-accused, the medical evidence of homicidal death and the electronic evidence capturing the incident. The impugned judgment is founded on surmises, conjectures and a pedantic approach to the rules of evidence, resulting in a failure of justice. The learned Sessions Court has also failed to apply the settled principle that the prosecution must prove its case beyond reasonable doubt, and that, in doing so, the Court must assess the evidence as a whole and not allow the prosecution case to fail on technicalities.

4.7 In view of the above, it is prayed that the appeal may be allowed and the impugned judgment and order of acquittal may be quashed and set aside, and the respondent-accused may be convicted for the offences with which he was charged.

5. We have learned APP for the State, at the stage of admission, and carefully perused the oral as well as documentary evidence adduced before the learned Sessions Court.

6. As regards to the cause of death, the learned Sessions Court has held the death of the deceased - Dharmendra Shivkumar Sonkar to be unnatural and homicidal. PW-6, Dr. Hinaben Himmatbhai Patel (Exhibit 39), who conducted the post-mortem along with the panel doctor, opined that death was

due to hemorrhagic shock consequent upon stab wounds. The Post-Mortem Note (Exhibit 40) and the Cause of Death Certificate (Exhibit 41) support this opinion, as does the inquest Panchnama (Exhibit 38), and the medical evidence remains unshaken in cross-examination. We concur with the finding that the death was homicidal. The real issue is whether the prosecution has proved, beyond reasonable doubt, that the respondent-accused was the author of the injuries or not.

7. On this crucial question, the prosecution has no direct evidence. The complainant, Chhotu Shivkumar Sonkar (PW-5, Exhibit 36), has stated that he did not witness the assault and that no one was seen inflicting knife blows on his brother. He did not support the prosecution even when cross-examined after being declared hostile. The deceased's other brother, Rajeshbhai Shivkumar Sonkar (PW-8, Exhibit 46), has stated that he was at work at Kasba village at the relevant time and was unaware of how his brother died. Neither witness provides any link between the respondent-accused and the offence. The alleged motive, arising from the earlier relationship between the accused's sister and the deceased, is not supported by either of them. In any event, motive, even if proved, cannot by itself sustain a conviction.

8. All the Panch Witnesses have turned hostile. Consequently, the Panchnamas relating to the scene of offence, the seizure of the motorcycle of the accused, the clothes of the deceased, the arrest of the accused and the seizure of his clothes, and the seizure of the pen drive (Exhibit 26), have not been proved by independent evidence. The learned Sessions Court has therefore

rightly held that no reliance can be placed on the FSL reports relating to the articles so seized, as their seizure and sealing remain unestablished.

9. The thrust of the submissions of the learned Additional Public Prosecutor was that the learned Sessions Court wrongly discarded the CCTV footage. We have examined this contention with care and are unable to accept it. PW-9, Priteshbhai Prakashbhai Sonvane (Exhibit 47), has admitted in cross-examination that the pen drive was brought by the police, that the certificate (Exhibit 48) was prepared by the police and merely signed by him, that he does not know how such a certificate is to be prepared, that neither the certificate nor his deposition mentions the make of the DVR, and that he never viewed the footage. We do not hold that a technician must view the contents of the footage. However, the question is not whether he viewed it but whether the electronic record has been established as authentic and untempered from the stage of extraction onwards. A certificate under Section 65B of the Indian Evidence Act, 1872 is not a mere formality. It must identify the electronic record, describe the manner in which it was produced, and be given by a person in a position of responsible control over the device, who can speak to its proper functioning. A certificate drawn up by the police and signed without knowledge of its contents, on the basis of a deposition silent on the very device from which the footage was taken, cannot discharge that burden. Further, the seizure of the pen drive is not proved by independent evidence, and the Investigating Officer (PW-11, Exhibit 50) cannot, by his sole testimony, repair the break in the chain of custody. We do not consider it necessary to rest our decision on the hostility of the

Panchas alone. The absence of any credible foundation for the footage is itself sufficient to place it outside the pale of reliable evidence.

10. The learned Sessions Court has also found that the charge under Section 135 of the Gujarat Police Act has not been proved. No notification of the District Magistrate prohibiting the carrying of arms was proved to be in force on the date, time and place of the incident, and there is no evidence that the respondent-accused carried or used any weapon. We find no infirmity in that finding.

11. We would like to place on record the scope of interference in an appeal against the acquittal and when the same is justified. In exceptional cases, where there are compelling circumstances and the judgment under appeal is found to be perverse, the appellate court can interfere with the judgment of acquittal. The Appellate Court should consider the presence of innocence of the accused and further that, the trial Court's acquittal bolsters the presumption of his innocence. Interference in a routine manner, where the other view of possible should be avoided, unless there are reasons for interference, as the same has been laid down by the Hon'ble Supreme Court, in the case of ***Tulasareddi @ Mudakappa & Anr. v. The State of Karnataka & Ors., 2026 INSC 67***.

12. In a nutshell, the prosecution has failed to establish the chain of circumstances pointing unerringly to the guilt of the respondent-accused and to the exclusion of every other hypothesis. The medical evidence proves only that the death was homicidal, and that is not in dispute. The learned Sessions

Court has appreciated the evidence in a reasoned manner and held that a reasonable doubt arises as to the authorship of the injuries. That view is plausible, based on the record, and neither perverse nor contrary to law. No ground is made out to take a different view.

13. In view of the foregoing, the present appeal *sans merit* and deserves to be dismissed and accordingly, it is ***dismissed***.

14. The impugned judgment and order dated 09.04.2026 passed by the learned Principal District and Sessions Judge, Navsari in Sessions Case No.101 of 2023 stands confirmed.

15. Record and proceeding, if any, be remitted to the concerned Court.

sd/-
(ILESH J. VORA,J)

sd/-
(R. T. VACHHANI, J)

PARMAR KRISH/11

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: PARMAR KRISH(HC02348), ENGLISH STENO GRADE-II\, at High Court of Gujarat on 16/10/2026 12:47:26