



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Appeal (Sb) No. 2271/2023

Ashiq S/o Ismail Titrodiya, Aged About 34 Years, R/o Bamaniya
Dera Yashoverdhan Nagar Ps Dist. Mandsaur M.p.

----Appellant

Versus

State Of Rajasthan, Through Pp

----Respondent

For Appellant(s) : Mr. S.S. Shaktawat
For Respondent(s) : Mr. Surendra Bishnoi, AGA

**HON'BLE MR. JUSTICE FARJAND ALI
Judgment**

REPORTABLE

DATE OF CONCLUSION OF ARGUMENTS	19/02/2026
DATE ON WHICH ORDER IS RESERVED	19/02/2026
FULL ORDER OR OPERATIVE PART	Full Order
DATE OF PRONOUNCEMENT	06/03/2026

BY THE COURT:-

1. The instant Criminal Appeal under Section 374(2) Cr.P.C. has been filed by the appellant against the judgment dated 22.08.2023 passed by the learned Addl. Sessions Judge, Dungarpur in Sessions Case No.19/2016 whereby the appellant has been convicted and sentenced as under:-

Offence for which convicted	Substantive sentence	Fine and default sentence
Section 6/8 of Raj. Animal Bovine (Prohibition of Slaughter & Regulation of Temporary Migration Or Export) Act	One year R.I.	Fine of Rs.1,000/- and in default to further undergo 15 days SI
Section 9 of Raj. Animal Bovine (Prohibition of Slaughter & Regulation of Temporary Migration Or Export) Act	One year R.I.	Fine of Rs.1,000/- and in default to further undergo 15 days SI

Both the sentences were ordered to run concurrently.

2. Briefly stated the facts of the case are that on 10.04.2014, at around 6:15 a.m., Bichhiwara Police Station received a tip



regarding the transportation of bovine animals in Truck No.RJ-09-GA-1764, allegedly destined for slaughter in Gujarat via Ratanpur. Acting on this information, police personnel, along with two independent witnesses, Lalshanker and Dinesh, set up a nakabandi on the road towards NH-8.

2.1. At approximately 7:45 a.m., the truck, driven at high speed, attempted to evade the checkpoint. Police pursued and stopped it near Ansol. The driver, Akbar, and cleaner, Ashiq, were apprehended after trying to flee. Akbar, however, has subsequently absconded. Upon inspection, 58 animals were recovered, including 30 calves and 24 buffaloes, with one buffalo and two calves found dead. The accused failed to produce any valid permit for transporting the animals.

2.2. On the basis of the above, FIR No. 119/2014 was registered under Sections 3, 5, 6, 8, and 9 of the Rajasthan Bovine Animals Act, 1995. After investigation, the accused were charged, and during trial, the prosecution examined 17 witnesses and tendered 33 documents, while the defense produced none, asserting false implication. The trial court, vide its judgment dated 22.08.2023, acquitted the accused under Sections 3/8 and 5/8, but convicted them under Sections 6/8 and 9 of the Act. Hence the instant criminal appeal.

3. I have heard the learned counsel for the parties and perused the impugned judgment as well as minutely gone through material available on record.





4. Upon meticulous perusal of the case record, it becomes manifest that the authorities intercepted a vehicle in the course of their investigation. At the time of interception, the Truck was allegedly being driven by Akbar, with Ashiq occupying the cleaner's seat. The present appellant, however, was merely found seated within the vehicle. Critically, there exists no evidence attributing to him any overt act, incriminating conduct, or discernible role in the alleged offence. The record is devoid of any material that might establish whether he was merely travelling as a passenger, actively assisting in the transportation, or even cognizant of the purported illegality of the activity. Likewise, there is no evidence to demonstrate any nexus between the appellant and the driver, owner, or cleaner, nor any proprietary, possessory, or managerial connection with the vehicle in question.

4.1. It follows, therefore, that the entire edifice of the prosecution against the appellant rests solely upon his physical presence within the vehicle a circumstance which, in criminal jurisprudence, is inherently equivocal and, without corroboration, patently insufficient to sustain a conviction. The law requires cogent and reliable evidence establishing conscious knowledge and active participation to impute criminal liability.

4.2. The conviction against the appellant is purportedly predicated upon Section 3 of the Rajasthan Bovine Animals [Prohibition of Slaughter and Regulation of Temporary Migration or Export] Act, 1995, which, in its operative ambit, proscribes the transportation of bovine animals from any location within the State to a place





outside the State for the specific purpose of slaughter. It is well-settled that the statutory ingredients of this provision are conjunctive, not disjunctive. The prosecution is, therefore, under a mandatory duty to establish, beyond reasonable doubt:

1. That the bovine animals were being transported from a location within the State;
2. That the intended destination lay outside the State; and
3. That such transportation was undertaken specifically for the purpose of slaughter.

In the absence of affirmative proof of these foundational elements, any invocation of Section 3 is legally untenable.

4.3. In the present matter, there exists a conspicuous absence of evidence establishing that the animals were being transported from within the State to a destination outside the State. Equally, no credible material demonstrates that the transportation was intended for slaughter. The prosecution has failed to preclude alternative possibilities, including:

- a. That the vehicle may have originated in another State and was merely transiting through Rajasthan en route to a different destination;
- b. That the transportation may have been entirely inter-State in nature, thereby falling outside the mischief contemplated under Section 3; or
- c. That the transportation may have been undertaken for





legitimate agricultural, dairy, or commercial purposes rather than for slaughter.

By way of illustration, if the animals were being transported from Gujarat through Rajasthan to Uttar Pradesh, mere transit through the State would not, in itself, attract the provisions of Section 3.

Similarly, intra-State transportation, for instance between districts within Rajasthan, would not fall within the statutory prohibition unless the requisite ingredient of intended export outside the State for slaughter is demonstrably established.

4.4. Criminal jurisprudence does not countenance conjecture or surmise. Even the gravest suspicion cannot supplant the indispensable requirement of proof. The doctrine of statutory presumption operates only after the prosecution has discharged its initial burden of proving the foundational facts beyond reasonable doubt. It is only upon such proof that any presumption may arise, shifting the evidentiary burden onto the accused. Presumptions, however, do not absolve the prosecution of its primary and inalienable duty to establish the elemental ingredients of the offence through admissible and cogent evidence.

4.5. In the present case, there is not a scintilla of legally admissible evidence to indicate that the transportation was intended for slaughter. No documentary record, confessional statement, recovery of slaughtering implements, or circumstantial chain of events has been adduced to support this allegation. Consequently, the prosecution has failed at the very threshold to discharge its foundational burden of proof.





4.6. Further, the appellant's mere presence within the vehicle, in the absence of demonstrable knowledge, intent, dominion, or participation, cannot satisfy the mens rea requirement essential to establish criminal liability. Vicarious liability cannot be imputed in criminal law unless expressly provided by statute. The record is bereft of evidence indicating conscious possession, active complicity, or participation by the appellant.

4.7. A holistic and rigorous analysis of the evidence, juxtaposed with the statutory mandate, unequivocally reveals that the conviction is grounded upon surmise rather than substantiated proof. The findings recorded by the trial court, therefore, cannot withstand the scrutiny of law.

5. In light of the foregoing, the appeal is meritorious and is hereby allowed. The judgment of conviction and the order of sentence dated 22.08.2023, passed by the learned Addl. Sessions Judge, Dungarpur, in Sessions Case No. 19/2016, are set aside. The appellant, Ashiq, is acquitted of all charges. Being on bail, the appellant is not required to surrender in the present matter. All pending applications, if any, shall stand disposed of.

6. The record of the case shall be remitted forthwith to the trial court for such further proceedings as may be necessary in accordance with law.

(FARJAND ALI),J

67-Mamta/-

