

CrPC S. 378 – Approach to be adopted while deciding an appeal against acquittal by the trial court as well as by the High Court – Section 378 of the Cr.P.C deals with appeals in case of acquittal.

*"16. It cannot, however, be forgotten that in case of acquittal, there is a 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 should be presumed to be innocent unless he is proved to be guilty by a competent court of law. Secondly, the accused having secured an acquittal, the presumption of his innocence is certainly not weakened but reinforced, reaffirmed and strengthened by the trial court.*

*But in exercising the power conferred by the Code and before reaching its conclusions upon fact, the High Court should and will always give proper weight and consideration to such matters as*

- (1) the views of the trial Judge as to the credibility of the witnesses;*
- (2) the presumption of innocence in favour of the accused, a presumption certainly not weakened by the fact that he has been acquitted at his trial;*
- (3) the right of the accused to the benefit of any doubt; and*
- (4) the slowness of an appellate court in disturbing a finding of fact arrived at by a judge who had the advantage of seeing the witnesses.*

*To state this, however, is only to say that the High Court in its conduct of the appeal should and will act in accordance with rules and principles well known and recognised in the administration of justice."*

**Sheo Swarup v. R. Emperor, AIR 1934 PC 227(2)**