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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.A. 102/2016 & CRL.M.A. 1548-1549/2016

ABDUL HAMEED

..... Appellant

Through: Mr Suhail Khan, Advocate.

versus

STATE & ANR

..... Respondents

Through: Mr M.S.Oberoi, APP.
SI Mehrab Alam, PS- Khajuri Khas,
Delhi.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

ORDER

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29.01.2016

The present is an appeal under Section 372 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code') assailing the judgment and order dated 06.10.2015 in Sessions Case No.154/2010 (*State v. Nasibuddin*) arising out of FIR No.45/2008 under Section 498-A/306 IPC, Police Station-Khajuri Khas, Delhi, whereby the accused, private respondent herein, who is the son-in-law of the appellant was acquitted by the trial court.

In *Satya Pal Singh v. State of M.P.: 2015 (10) SCALE 444*, the Hon'ble Supreme Court held as follows:-

“15. Thus, to conclude on the legal issue:

“whether the appellant herein, being the father of the deceased, has statutory right to prefer an appeal to the High Court against the order of acquittal under proviso to Section 372 of Cr.P.C. without obtaining the leave of the High Court as required under sub-Section (3) to Section 378 of Cr.P.C.”, this Court is of the view that the right of questioning the correctness of the judgment and order of acquittal by preferring an appeal to the High Court is conferred upon the victim including the legal heir and others, as defined under Section 2(wa) of Cr.P.C., under proviso to Section 372, but only after obtaining the leave of the High Court as required under sub-Section (3) to Section 378 of Cr.P.C. The High

Court of M.P. has failed to deal with this important legal aspect of the matter while passing the impugned judgment and order.”

A perusal of the above clearly postulates that the father of the deceased victim has a statutory right to prefer an appeal to the High Court against the order of acquittal under proviso to Section 372 of the Code but only after obtaining leave of the High Court as required under sub-Section (3) of Section 378 of the Code.

Counsel appearing on behalf of the appellant states that in fact he had earlier instituted a Criminal Leave Petition in this behalf which was returned under objection by the Registry ostensibly on the ground that the same was not maintainable.

The Registry is accordingly directed to ensure that appeals against acquittals by the legal heirs and guardians of the deceased victim be accepted as Criminal Leave Petitions in terms of sub-Section (3) of Section 378 of the Code and listed accordingly as Criminal Leave Petitions.

In view of the foregoing, counsel appearing on behalf of the appellant seeks leave to withdraw this appeal with liberty to institute a Criminal Leave Petition in terms of sub-Section (3) of Section 378 of the Code.

Leave and liberty granted. The appeal is dismissed as withdrawn and disposed of accordingly.

SIDDHARTH MRIDUL, J

JANUARY 29, 2016

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