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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRIMINAL LEAVE PETITION No. 44/2016**

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Date of decision: 26th February, 2016

STATE

.....PETITIONER

Through : Ms.Kamna Vohra, Additional Standing
Counsel for the State With SI Ombir
Singh, P.S. - Welcome.

Versus

AMIT

.....RESPONDENT

Through : None.

CORAM :

HON'BLE MR. JUSTICE G. S. SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

SANGITA DHINGRA SEHGAL, J. (ORAL)

Crl. M. A. 1075/2016 (Delay in filing)

1. This is an application under Section 5 of Limitation Act read with Section 482 of the Code of Criminal Procedure filed by the State seeking condonation of delay of 7 days in filing the present leave to appeal petition.
2. Heard. For the reasons stated in the application, delay in filing the present leave to appeal petition is condoned.
3. Application stands disposed of.

Crl. LP No. 44/2016

4. The present leave to appeal has been filed by the State under Section 378(3) of the Code of Criminal Procedure being aggrieved by the impugned judgment dated 01.10.2015 passed by learned Additional

Sessions Judge-01, North-East, Karkardooma, Delhi thereby acquitting the respondent.

5. The brief facts of the case as noticed by the learned Trial Court are as under :

"The victim in this case is a girl aged about 7 years and a student of class 2nd at the time of incident. She was residing with her parents, grandparents and brother. She had alleged that on 15.02.2011, when she was going upstairs to her room at the top floor after purchasing milk from a shop, one boy namely Amit who used to do DJ wok with her father and also known to her previously, met and caught hold of her at the second floor and removed her Pajami. She further alleged that when she asked the accused to leave her, he did not do so and instead sat on her waist and inserted his finger into her urinary organ on which she started crying and he also wetted her Pajami. Meanwhile, on hearing the cries of the victim, her mother reached there and on seeing her, accused Amit ran away. On the asking of her mother, the victim told the incident to her and thereafter to her father. On the complaint of the victim, a case was registered for the offences punishable under Sections 376/511 Indian Penal Code vide FIR No.57/2011, dated 16.02.2011. The accused was arrested on the same day. "

6. After investigation was over, charge-sheet against the accused was filed before the Court for the offence under Section 376 (2) (f) of the

Indian Penal Code and charge was framed against the accused for the said offence. To substantiate its accusation, prosecution examined thirteen witnesses in all to prove its case. Statement of accused under Section 313 of Code of Criminal Procedure was recorded wherein he pleaded his innocence and claimed to be tried.

7. The learned Trial Court, upon analysis, examination and evaluation of the prosecution evidence and after considering the rival submissions recorded acquittal against the accused for the charged offence but found him guilty for the offence punishable under Section 354 of the Indian Penal Code and convicted him accordingly.
8. Aggrieved by the impugned judgment, the State has filed the present leave petition contending that the view and the ultimate conclusion recorded by the learned Trial Court in acquitting the accused for the offence under Section 376 (2) (f) of the Indian Penal Code is manifestly perverse, unsustainable, tainted with non-application of mind to vital evidence, a result of wrong interpretation of evidence of minor victim girl and other substantial evidences, which has resulted into miscarriage of justice. Learned Additional Public Prosecutor for the State further contends that as per the settled legal position even uncorroborated testimony of the prosecutrix can result into conviction of the accused in a rape case but in the instant case, the testimony of the prosecutrix was fully supported by her father (PW3) and her mother (PW2). She further contends that the victim has no motive to falsely implicate the accused. She further contends that the evidence of child witness (prosecutrix) alone is sufficient to convict the respondent for the offence punishable under Section 376 (2)(f) as the

respondent committed rape on the victim and the scientific evidence led by the prosecution corroborates the commission of the offence, as such the learned Trial Court has failed to appreciate the evidence in the right perspective and acquitted the respondent for the charged offence. She further contended that even though the offence of rape may not have been made out but attempt to commit rape is clearly established. Lastly, learned counsel for the State contended that respondent committed rape upon the child victim who was about 7 years old at the time of occurrence and he should be convicted under POCSO Act, 2012 for the alleged offence.

9. We heard learned counsel for the State and perused the entire material available on record.
10. In order to appreciate the contention of learned counsel for the State, two issues emerge before us i) as to whether the alleged act as stated by the child victim to have been committed by the respondent amounts to commission of rape and; ii) whether some other offence is made out against the respondent. It is necessary to refer to the testimony of the child victim about the act being committed by the respondent.
11. The child victim was just 7 years old at the time of alleged occurrence. In her complaint Ex.PW1/A she stated that while she was returning to her house after fetching milk, accused caught hold of her and sat on her waist and inserted his fingers into her urinary organ on which she started crying . She further stated that on hearing her cries, her mother came downstairs and on seeing her mother accused ran away. On asking, she narrated the entire incident to her mother and later to her father.

12. PW12 Dr. Ria Malik who had medically examined the child victim prepared her MLC Ex.PW12/A wherein child victim narrated the incident as follows :

"As per Payal and also her mother, she had gone to ground floor of her building. She lives on 3rd floor to bring milk. She was stopped on second floor, where lighting was poor by Amit. He removed her clothes, sat on her back and put his fingers into her private parts."

13. The child victim was produced before learned Metropolitan Magistrate who had recorded her statement Ex.PW1/B under Section 164 of Code of Criminal Procedure wherein she had stated that she was residing at third floor. When she reached on the second floor, accused took her into a room and made her down, removed her pajami and accused also unzipped his pants and *"Apni Pesab Wali Meri Pesab Wali Mein Daali"*. She further stated that accused sat on her back and started jumping. On hearing her cries, her father reached there on which accused ran away.

14. The child witness appeared before Court as PW1 and deposed that :

"In the year 2011, I was studying in 3rd Standard. On 15.02.2011, at about 9:00 PM, accused had taken me in a room, at first floor of my house. There, accused had removed my clothes and committed rape upon me. I cried. On hearing my cry, my father came in that room at first floor. No other person was along with my father at that time. On seeing my father, accused had gone down stairs."

15. When PW1 was subjected to cross examination, confronted on material aspects with her statements made to the police as well as to the Metropolitan Magistrate, she stated that :

"I had stated to my mother about the facts of rape with me by accused (confronted with statement Ex.PW1/A, where it is not so recorded). However, it is recorded that accused had tried to commit wrong act forcibly with me. Entire incident had taken place in the room at first floor. My mother had not come at the first floor. (Confronted portion C to C of statement Ex.PW1/A, where it is so recorded.)"

16. PW2 Poonam, mother of the child victim deposed on oath before court that :

"I had sent victim to bring milk but victim did not return for a 15-20 minutes. Suddenly, I heard weeping voice of victim. I called her and asked the reason as to why she was weeping. She told me that accused had caught hold her and laid on her by saying that do not disclose to anybody whatever I am doing with you."

17. This witness was confronted by learned APP for the State with her statement recorded under Section 161 of Code of Criminal Procedure and deposed that :

"It is correct that when I came down stairs hearing the cry of victim, I saw accused Amit was sitting on waist of victim. It is correct that immediately on seeing me accused tried to run away."

18. During cross-examination by learned counsel for the accused, PW2 deposed that :

"My husband was on the third floor when I sent the victim to bring milk. When I heard the cry of the victim, I was on third floor. First, the father of the victim came to the second floor and thereafter I came over there. I came down to second floor after about 5-10 minutes as I was cooking 'Chapati'. It is correct that the door of the room in which victim was crying, opens in the staircase. When I came on the second floor, I found that my husband was present in the room where victim was crying. Victim had already herself put on her 'Pajami' when I came over there."

19. PW3 Sanjay, father of the child victim deposed that :

"I had given Rs.20 to victim to bring milk. Victim brought the milk within 4-5 minutes. Victim had come down. After sometime I heard the cry of victim and saw the accused on first floor from wooden ladder while giving her some money and was saying to the victim not to disclose anything to anyone.

I called the victim. My wife asked her as to what had happened with her. Victim had stated that accused had done 'Gandi-Gandi Baten' with her."

20. In ***State of U.P. v. Naresh*** reported in (2011) 4 SCC 324, the Hon'ble Apex Court held that:

“In all criminal cases, normal discrepancies are bound to occur in the depositions of witnesses due to normal errors of observation, namely, errors of memory due to lapse of time or due to mental disposition such as shock and horror at the time of occurrence. Where the omissions amount to a contradiction, creating a serious doubt about the truthfulness of the witness and other witnesses also make material improvement while deposing in the court, such evidence cannot be safe to rely upon. However, minor contradictions, inconsistencies, embellishments or improvements on trivial matters which do not affect the core of the prosecution case, should not be made a ground on which the evidence can be rejected in its entirety. The court has to form its opinion about the credibility of the witness and record a finding as to whether his deposition inspires confidence.

Exaggerations per se do not render the evidence brittle. But it can be one of the factors to test credibility of the prosecution version, when the entire evidence is put in a crucible for being tested on the touchstone of credibility. Therefore, mere marginal variations in the statements of a witness cannot be dubbed as improvements as the same may be elaborations of the statement made by the witness earlier. The omissions which amount to contradictions in material particulars i.e. go to the root of the

case/materially affect the trial or core of the prosecution's case, render the testimony of the witness liable to be discredited."

21. A close scrutiny of above witnesses goes to show that there are material contradictions, inconsistencies and improvements in their statements which are so material that the same go to the root of the case, materially affect the trial or core of the prosecution case and do not find credible, trustworthy and also do not inspire confidence.
22. In ***Tarkeshwar Sahu Vs. State of Bihar reported in (2006) 5 SCC 560***, the Hon'ble Apex Court has observed :

"19. In the instant case, the accused has been charged with Sections 376/511 IPC only. In absence of charge under any other section, the question now arises - whether the accused should be acquitted; or whether he should be convicted for committing any other offence pertaining to forcibly outraging the modesty of a girl. In a situation like this, we would like to invoke Section 222 of the Code of Criminal Procedure, which provides that in a case where the accused is charged with a major offence and the said charge is not proved, the accused may be convicted of the minor offence, though he was not charged with it. Section 222 Cr.P.C. reads as under:

*222. When offence proved included in offence charged.-
(1) When a person is charged with an offence consisting of several particulars, a combination of some only of*

which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

(2) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

(3) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.

(4) Nothing in this section shall be deemed to authorise a conviction of any minor offence where the conditions requisite for the initiation of proceedings in respect of that minor offence have not been satisfied.

In this section, two illustrations have been given which would amply describe that when an accused is charged with major offence and the ingredients of the major offence are missing and ingredients of minor offence are made out then he may be convicted for the minor offence even though he was not charged with it. Both the illustrations given in the said section read as under:

(a) A is charged under Section 407 of the Indian Penal Code (45 of 1860) with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust

under Section 406 of that Code in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under the said Section 406.

(b) A is charged under Section 325 of the Indian Penal Code (45 of 1860), with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under Section 335 of that Code.

20. In the case Lakhjit Singh and Anr. Vs. State of Punjab this Court had an occasion to examine the similar question of law. In this case, the accused was charged and tried under Section 302 of the Indian Penal Code but ingredients of Section 302 were missing but ingredients of Section 306 were present, therefore, the Court deemed it proper to convert the conviction of the appellant from Section 302 to Section 303 IPC. In this case, it was urged that the accused cannot be tried under Section 306 IPC because the accused were not put to notice to meet a charge under Section 306 IPC and, therefore, they are prejudiced by not framing a charge under Section 306 IPC; therefore, presumption under Section 113A of Indian Evidence Act cannot be drawn and consequently a conviction under Section 306 IPC cannot be awarded. According to this Court, in the facts and circumstances Section 306 was attracted and the appellants' conviction under Section 302 IPC was set

aside and instead they were convicted under Section 306 IPC.

21. A three-Judge Bench of this Court in the case of Shamnsaheb M. Multtani v. State of Karnataka (2001) 2 SCC 577 had an occasion to deal with Section 222 of the Code of Criminal Procedure. The Court came to the conclusion that when an accused is charged with a major offence and if the ingredients of major offence are not proved, the accused can be convicted for minor offence, if ingredients of minor offence are available. The relevant discussion is in paragraphs 16, 17 and 18 of the judgment, which read as under:

16. What is meant by "a minor offence" for the purpose of Section 222 of the Code? Although the said expression is not defined in the Code it can be discerned from the context that the test of minor offence is not merely that the prescribed punishment is less than the major offence. The two illustrations provided in the section would bring the above point home well. Only if the two offences are cognate offences, wherein the main ingredients are common, the one punishable among them with a lesser sentence can be regarded as a minor offence vis-a-vis the other offence.

17. The composition of the offence under Section 304B IPC is vastly different from the formation of the offence of murder

under Section 302 IPC and hence the former cannot be regarded as minor offence vis-a-vis the latter. However, the position would be different when the charge also contains the offence under Section 498A IPC (husband or relative of husband of a woman subjecting her to cruelty). As the word "cruelty" is explained as including, inter alia, harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

18. So when a person is charged with an offence under Section 302 and 498A IPC on the allegation that he caused the death of a bride after subjecting her to harassment with a demand for dowry, within a period of 7 years of marriage, a situation may arise, as in this case, that the offence of murder is not established as against the accused. Nonetheless, all other ingredients necessary for the offence under Section 304B IPC would stand established. Can the accused be convicted in such a case for the offence under Section 304B IPC without the said offence forming part of the charge?

22. On careful analysis of the prosecution evidence and documents on record, the appellant cannot be held guilty for committing an offence punishable under Sections 376/511 IPC. According to the version of

the prosecution, the appellant had forcibly taken the prosecutrix to his Gumti for committing illicit intercourse with her. But before the appellant could ravish the prosecutrix, she raised an alarm and immediately thereafter, her father PW1 Ram Charan Baitha and other co-villagers residing in the vicinity assembled at the spot and immediately thereafter, the appellant and the prosecutrix came out of the Gumti. In this view of the matter, no offence under Sections 376/511 IPC is made out.

23. In this view of the matter, it has become imperative to examine the legal position whether the offence of the appellant falls within the four corners of other provisions incorporated in the Indian Penal Code relating to outraging the modesty of a woman/girl under Sections 366 and 354. Section 366 IPC is set out as under:

Section 366. *Kidnapping, abducting or inducing woman to compel her marriage, etc. - Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which*

may extend to ten years, and shall also be liable to fine; and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable as aforesaid.

24. The essential ingredient of the offence punishable under Section 366 IPC is that when a person has forcibly taken a minor girl with the intention as specified in that section, then the offence is clearly made out. In the instant case, the appellant at about 1.30 a.m. has forcibly taken the prosecutor/victim to his Gumti with the intention of committing illicit intercourse then the offence committed by the appellant would fall within the four forecorners of Section 366 IPC. In our considered view, the essential ingredients of the offence punishable under Section 366 IPC are clearly present in this case. We deem it appropriate to briefly reproduce the ratio of some decided cases.

*In **Khalilur Ramman v. Emperor : AIR 1933 Ran 98** the Full Bench has observed as under:*

The intention of the accused is the basis and the gravamen of an offence under Section 366. In considering whether an offence has been committed

under this section, the volition, the intention and the conduct of the woman are nihil ad rem except in so far as they bear upon the intent with which the accused kidnapped or abducted her. If the accused kidnapped or abducted the woman with the necessary intent, the offence is complete whether or not the accused succeeded in effecting his purpose, and even if in the event the woman in fact consented to the marriage or the illicit intercourse taking place.

*This Court in **Rajendra v. State of Maharashtra (1997) SCC (Cri) 840** observed as under:*

Where the Courts had given cogent and convincing reasons for recording their finding that the accused had kidnapped the victim girl with intent to seduce her to illicit intercourse, conviction of accused under Section 366 was not interfered with.

*The High Court of Delhi in **Niranjan Singh v. State (Delhi) : (1986) 2 Cri 335** indicated that in what circumstances an offence under Section 366 IPC is made out. In this case, the Court, while dealing with a case under Section 366 IPC, observed as under:*

Where from the statement of prosecutrix, a girl of six years age it was evident that the accused took her on the pretext of getting her some biscuits to public toilets took off her salwar and also his own pant made her to lie on the floor and bent down on her when he was caught hold

by a watchman in the locality, the accused would not be guilty of an attempt to rape however he would be guilty of an offence under Section 366 IPC.

In Vishnu v. State of Maharashtra : (1997) CrLJ 1724 (Bom) the High Court of Bombay observed as under:

The accused were alleged to have kidnapped the girl below 16 years of age from the lawful guardianship of her parents and taken her to another city. The co-accused had simply met the girl and had not instigated her to accompany the accused. Hence, her conviction was set aside. So far accused was concerned, his offence of kidnapping was proved beyond all doubts and he was convicted Under Section 363/366 IPC. Accused was however acquitted of the charge of rape Under Section 375 IPC as hymen of girl was intact and there were no outward sign of injuries or violence suggesting the sexual intercourse and consequently no rape could be said to have taken place.

25. In the instant case, the act of the accused proves that during the kidnapping of the prosecutrix or forcibly taking her to the Gumti, the accused had intention or knew it likely that the prosecutrix would be forced to have illicit intercourse. Hence, it is not a mere case of kidnapping for indecent assault but the purpose for which kidnapping was done by the accused has been

proved. It is a different matter that the accused failed at the stage of preparation of committing the offence itself.

26. In view of the foregoing facts and circumstances of the case, we are of the opinion that the crime committed by the accused was at initial stage of preparation. The offence committed does not come within the purview of offence punishable under Sections 376/511 IPC. The offence committed squarely covers the ingredients of Sections 366 and 354 IPC. The appellant was charged under Sections 376/511 IPC but on invoking the provisions of Section 222 of the Code of Criminal Procedure the accused charged with major offence can always be convicted for the minor offence, if necessary ingredients of minor offence are present.

27. On the basis of evidence and documents on record, in our considered view, the appellant is also guilty under Section 354 IPC because all the ingredients of Section 354 IPC are present in the instant case."

23. Returning to the present case, no evidence of rape was deduced from the medical examination of the victim and the doctor who had examined the victim stated that "*There was no visible injury mark on the person of victim. There was an abrasion on the forearm of the victim but that was stated to be due to fall on the stairs in the morning before the present incident. Hymen of the victim was found intact.*" therefore there is no definite opinion about the rape.

24. There is no indication in the evidence on record in respect of the alleged act of penetration of the sexual organ by the accused in the vagina of the victim. More so, the doctor also ruled out such assault or injury on the vagina of the victim, and as such, we are of the considered opinion that charge of rape under Section 376(2) (f) of the Indian Penal Code has not been established beyond reasonable doubt. In view of the above discussion, with the attendant facts and circumstances of this case, though it has been established in evidence that the victim was subjected to sexual assault by the appellant, but the prosecution could not establish beyond reasonable doubt that the victim was raped.
25. Another contention of learned APP for the State is that even if the offence of rape is not proved the accused would be liable to commit an offence of attempt to rape the child victim.
26. We think distinction between an attempt to rape and rape is very subtle. When an attempt to penetrate is made, but no penetration takes place, it can be said to be an attempt to rape; but when an attempt to penetrate is made and a slight penetration takes place, the same would constitute rape.
27. In her initial statement made to the police the child victim stated that "*xxxx Amit naam ke ladke ne mujhe pakad liya aur meri 'Payjami' utaar di. Maine usse chodne ke liya kaha lekin usne mujhe nahi choda. Uske baad Amit meri kamar par beth gaya tabhi meri pesab karne wali jagah par ungli ghusa di*". We have also gone through the MLC report of the child victim wherein it has been stated that "*She was stopped on second floor, where lighting was poor by Amit. He*

removed her clothes, sat on her back and put his fingers into her private parts."

28. From the statement of the child victim and the MLC report, it is clear that the offence of attempting to commit rape is not made out as there was no attempt to penetrate. Thus, the crime committed by the accused does not fall within the purview of Sections 376/511 IPC of the Indian Penal Code.
29. The last contention raised by learned APP for the State is that the accused is liable to be convicted under Protection of Children from Sexual Offences (POCSO Act), 2012.
30. At the very outset, the POCSO Act, 2012 came into force on 20.06.2012 and was enacted in order to protect the children of our country from the heinous offences of sexual assault, sexual harassment and pornography and to secure such object, provisions have been made in the said Act for establishment of Special Courts for trial of such offences and for matters connected therewith or incidental thereto.
31. No law can be interpreted so as to frustrate the very basic rule of law. It is a settled principle of interpretation of criminal jurisprudence that the provisions have to be strictly construed and cannot be given a retrospective effect unless legislative intent and expression are clear beyond ambiguity. Since, the alleged crime pertains to the year 2011 and the POCSO Act incorporated in the year 2012, the contention of learned Counsel for the State does not hold any ground.
32. The learned Trial Court convicted the accused for the offence punishable under Section 354 of the Indian Penal Code. Section 354 of the Indian Penal Code reads as under:

33. "**Assault or criminal force to woman with intent to outrage her modesty** - Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both".

34. On analysing the evidence available on record, we find that all the ingredients of offence punishable under Section 354 of the Indian Penal Code such as, the criminal force applied on the woman and that force had been used on the woman intending to outrage her modesty or knowing that the act would likely to outrage her modesty are proved beyond reasonable doubt and accused has been rightly convicted by the learned Trial Court under Section 354 of the Indian Penal Code.
35. The law with regard to the grant of leave is well settled by a catena of judgments. Leave to Appeal can be granted only where it is shown that the conclusions arrived at by the Trial Court are perverse or there is misapplication of law or any legal principle. The High Court cannot entertain a petition merely because another view is possible or that another view is more conceivable. In *Arulvelu and Anr. vs. State : 2009 (10) SCC 206*, while referring with approval the earlier judgment in *Ghurey Lal Vs. State of Uttar Pradesh : (2008) 10 SCC 450*, the Supreme Court reiterated the principles which must be kept in mind by the High Court while entertaining an Appeal against acquittal. The principles are:

"1. The accused is presumed to be innocent until proven guilty. The accused possessed this presumption when he was before the trial court. The trial court's acquittal bolsters the presumption that he is innocent.

2. The power of reviewing evidence is wide and the appellate court can re-appreciate the entire evidence on record. It can review the trial court's conclusion with respect to both facts and law, but the Appellate Court must give due weight and consideration to the decision of the trial court.

3. The appellate court should always keep in mind that the trial court had the distinct advantage of watching the demeanour of the witnesses. The trial court is in a better position to evaluate the credibility of the witnesses.

4. The appellate court may only overrule or otherwise disturb the trial court's acquittal if it has "very substantial and compelling reasons" for doing so.

5. If two reasonable or possible views can be reached - one that leads to acquittal, the other to conviction - the High Courts/appellate courts must rule in favour of the accused".

36. It is a settled principle of criminal jurisprudence that the burden of proof lies on the prosecution and the prosecution has to prove a charge beyond reasonable doubt. The accused has a right to fair trial and the presumption of innocence is in favour of the accused.

37. Having regard to the principles laid down by the Apex Court in the case of ***Ghurey Lal (Supra)***, we do not find that there is any illegality or perversity in the reasoning given by the learned trial court in disbelieving the case of the prosecution. This court cannot lose track of the settled law that interference is called for only when there are substantial and compelling reasons for doing so.
38. In view of the aforesaid facts, we do not find any infirmity in the impugned judgment passed by learned trial court. We also find no reasons to take a different view than the view taken by the learned trial court. Consequently, leave to appeal stands dismissed.

SANGITA DHINGRA SEHGAL, J

G. S. SISTANI, J

FEBRUARY 26, 2016

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