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

+ **CRL.REV.P. 192/2011**

BIMLA DEVI

..... Petitioner

Represented by: Ms. Seema Malhotra, Proxy
counsel for Mr. D.K. Sharma,
Advocate.

versus

STATE & ANR

..... Respondents

Represented by: Mr. Ashok K. Garg, APP for
the State.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

12.07.2016

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Despite pass-over arguing counsel is not present on behalf of the appellant. Earlier also adjournments have been sought on behalf of the appellant. On the complaint of the appellant, FIR No. 53/1990 under Sections 498A/406/34 IPC was registered at PS D.B.G. Road against her husband Hari Kishan and others. After charges were framed against Hari Kishan, Beni Prasad and Smt. Roop Devi, that is, husband, father-in-law and mother-in-law of the appellant for offences punishable under Sections 406/498A/34 IPC evidence was led by the prosecution and the defence. Vide judgment dated 29th September, 2008 Beni Prasad, the father-in-law was acquitted for offences punishable under Sections 498A/406 IPC

The present petition is directed against the order of learned Metropolitan Magistrate acquitting Beni Prasad, father-in-law of the petitioner.

CRL.REV.P. 192/2011

Page 1 of 2

The present petition is not maintainable in view of the decision of the Hon'ble Supreme Court reported as Satya pal Singh vs. State of M.P. 2015 (10) Scale 444 wherein the leave to appeal is required to be taken by the complainant for filing an appeal against acquittal, which has not been sought and a revision petition has been preferred. Once a specific remedy is available to the petitioner recourse cannot be taken to a review petition. The Supreme Court held:

“13. 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 Code of Criminal Procedure without obtaining the leave of the High Court as required Under Sub-section (3) to Section 378 of Code of Criminal Procedure”, 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 Code of Criminal Procedure, 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 Code of Criminal Procedure. 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.”

Consequently, the revision petition is dismissed.

MUKTA GUPTA, J.

JULY 12, 2016

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CRL.REV.P. 192/2011

Page 2 of 2