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

+ **CRL.L.P. 520/2016**

STATE

..... Petitioner

Through: Mr. Tarang Shrivastava, APP for
State with ASI Virendra Kumar, P.S.
Jafrabad.

versus

MOHD.SAJID & ANR.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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26.09.2016

By this petition under Section 378(1) of the Code of Criminal Procedure, 1973, petitioner seeks leave to appeal against the judgement dated 23rd May, 2016 passed by the learned District & Sessions Judge, Shahdara District, Delhi whereby respondents have been acquitted of the charges under Sections 392/397/411/34 IPC and under Sections 25/26 of the Arms Act after scrutinizing the evidence led by the prosecution.

Trial court has held that prosecution has failed to prove its case beyond any reasonable suspicion and shadow of doubt that either both the accused persons or either of them, in furtherance of their common intention, committed offence of robbery punishable under Section 392/34 IPC or offence of robbery or dacoity with attempt to cause death or grievous hurt

punishable under Section 397/34 IPC or that respondent no.2 had received or retained stolen products dishonestly or that respondent no. 1 was found in possession of knife. Trial court has given benefit of doubt to the respondents and, thus, acquitted them.

I have heard the learned APP for the State and perused the material placed on record more particularly testimony of complainant/PW1 and I do not find any perversity in the judgment of the trial court. The view taken by the trial court is a possible view on the evidence adduced by the prosecution.

As per the prosecution, respondents had robbed PW1 Mohd. Ashraf on 14th January, 2015 of ₹2160 at about 12:40 pm and ran away. PW1 contacted PCR van parked nearby and thereafter PCR officials PW2 ASI Rati Ram and PW4 Const. Lekh Raj chased the respondents and apprehended them. Respondents were arrested in presence of PW1 Mohd. Ashraf and he signed the personal search memo as well as arrest memo. As per the prosecution, name of respondents were disclosed after their apprehension and the same were recorded in the FIR.

PW1 has failed to identify the respondents as the same persons who had robbed him. PW1 deposed that he had not given any statement to the police officials. He further deposed that his signatures were taken on some

blank documents. He categorically deposed that he can identify the boys who had committed this incident with him, if shown to him. PW1 was asked to identify the accused persons in the dock but he did not identify them as the same persons, who had robbed him. In these circumstances, trial court has not committed any error by giving benefit of doubt to the respondents.

For the foregoing reasons, present petition is dismissed. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

SEPTEMBER 26, 2016

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