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

DECIDED ON : 10th AUGUST, 2016

+ **CRL.A. 918/2015**

SOMA DEVI

..... Appellant

Through : Mr.Arun Kumar Tripathi, Advocate
with Mr.Rahul Jain, Advocate.

versus

STATE / NCT OF DELHI & ORS.

..... Respondents

Through : Mr.Amit Gupta, APP with W/SI
Josepha Kujur, PS Sarita Vihar.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

1. Present appeal under Section 372 of the Criminal Procedure Code has been preferred by victim's mother to challenge the legality and correctness of a judgment dated 05.06.2015 of learned Addl. Sessions Judge in Sessions Case No.198/2014 arising out of FIR No.149/2014 PS Sarita Vihar whereby the respondents were acquitted of the charge.

2. I have heard the learned counsel for the appellant and have examined the Trial Court record. Admitted position is that the prosecutrix on whose complaint, the FIR was lodged expired before her examination as a witness during trial. There was no other incriminating material to connect the respondents with the crime. The Trial Court in its wisdom closed the further prosecution evidence and acquitted the accused.

3. I find no illegality or material irregularity in the impugned judgment. The prosecutrix and the respondent No.2 were acquainted with each other since long; friendship had developed between the two. They had started living together in a rented accommodation. Physical relations took place between the two on several occasions. The prosecutrix even became pregnant twice. When the marriage between the two did not happen, the victim lodged the comprehensive written complaint dated 03.03.2014. Record reveals that earlier she had filed a complaint with the police but had opted not to pursue it due to settlement arrived at between both the parties. She wrote a letter dated 28.02.2014 to the concerned SHO not to initiate any proceedings on her complaint due to settlement. The prosecutrix was major on the date of incident. At the time of medical examination vide MLC (Ex.PW-1/A), no external injuries were found on victim's body including private parts to infer forcible rape. The prosecution examined PW-3 (Dr.Rachna Parashar). She declined if the victim was pregnant at the time of conducting ultrasound (Ex.PW-3/A). No evidence has come on record to infer if the accused had ever promised to marry the prosecutrix and the physical relations between the two were the result of that. The prosecutrix never informed her parents about her pregnancy and allegedly got that aborted without their consent. Nothing has emerged on record to infer if victim's parents ever contacted the accused or his family members in connection with marriage between the two. They were not even associated during investigation.

4. In the absence of crucial testimony of the prosecutrix due to her death, no useful purpose was going to be served to record the statements of remaining prosecution witnesses who were formal in nature.

5. It is relevant to note that the State did not challenge the impugned judgment. Only victim's mother who was not a witness has preferred the instant appeal.

6. The appeal lacks in merits and is dismissed. Trial Court record be sent back forthwith with the copy of the order.

(S.P.GARG)
JUDGE

AUGUST 10, 2016 / *tr*

