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

+ CRL.L.P. 66/2017

STATE

..... Petitioner

Through: Mr. Amit Chadha, APP for State with
SI Satyabir Singh, P.S. Jahangirabad.

versus

NAZBUL HASAN @ JAIGAM

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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02.02.2017

Crl. M.A. 1906/2017

Delay condoned.

Application is disposed of.

Crl. L.P. 66/2017

By this petition, petitioner seeks leave to appeal against the judgment dated 23rd July, 2016 passed by the Additional Sessions Judge-04, Shahdara, Karkardooma Courts, Delhi; whereby respondent has been acquitted of the offence under Sections 392/397/34 IPC.

As per the prosecution, on 30th September, 2013 at about 9:40 am respondent snatched gold chain of the victim PW1-Preeti Arora near Dak Khane Wali Gali, Jammu Mohalla, Maujpur, Delhi. Respondent was on a

motorcycle when he snatched the chain. He was sitting on the pillion of that motorcycle driven by an unknown person. Identity of the motorcycle owner could not be fixed during the investigation. It is further the case of prosecution that respondent had fled from the spot with the robbed gold chain. He was arrested on 27th October, 2013 by the Crime Branch, R.K. Puram in another FIR No. 178/13. During the investigation of the said FIR, respondent confessed to have committed 34 other cases, including the present case. Accordingly, respondent was arrested in this case. Gold chain could not be recovered. In the TIP, PW1-Preeti Arora identified the respondent as the same person who had snatched her gold chain. As per the prosecution, PW1 has also identified the respondent in Court.

Trial court has noted that identification of the respondent in TIP as well as in Court was inconsequential as PW1 had admitted, in her cross-examination, that photographs of the respondent were shown to her before the TIP as well as before her statement in Court. Trial court has noted that complainant has admitted in her cross-examination that police had shown her the photographs of accused before TIP and before her evidence in court. Since photographs of the respondent was shown to the PW1, no reliance can be put to such an identification. Reliance has been placed on State of

Madhya Pradesh vs. Chamru @ Bhagwandas AIR 2007 SC 2400. In the said judgment, Supreme Court has held as under :-

“We also agree with the contention of the Ld. Defence counsel that the identification proceedings held by S.D.M. Shri Patel (PW1) were only farce. Both Bantu (PW7) and Indu (PW8) admitted in cross examination that the police had shown them the photographs of Chamru. This would render the entire proceedings as useless and conviction cannot be based on such evidence.”

I do not find any perversity in the view taken by the trial court which is a possible view, on the evidence on record and the law governing the field. Accordingly, photograph of respondent was shown to PW1 before the TIP as also before her statement was recorded in the court. No reliance can be placed on such an identification.

For the foregoing reasons, petition is dismissed.

A.K. PATHAK, J.

FEBRUARY 02, 2017

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