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

+ CRL.L.P. 140/2017

STATE

..... Petitioner

Through :Ms. Neelam Sharma, APP with SI
M.L. Meena, P.S. Pul Prahlad Pur

versus

HARDYA RAM

..... Respondent

Through : None

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **09.03.2017**

Crl. M.A. No. 4088/2017 (Exemption)

Allowed, subject to all just exceptions. Application is disposed of.

Crl. M.A. No. 4087/2017 (condonation of delay) in CRL.L.P. No. 140/2017

There is delay of about 214 days in filing the present petition; whereby petitioner has prayed for grant of leave to appeal against the acquittal of respondent of the offences under Sections 279/304-A IPC. Reasons, given by the petitioner for delay, in my view, are not convincing and sufficient to explain the inordinate delay. As per the application, the judgment was pronounced on 6th April, 2016. Opinion to file the appeal was

given by the Additional Public Prosecutor on 6th May, 2016 and the file was sent to the office of Chief Public Prosecutor, who, in turn, sent the same to the Director of Prosecution on 9th May, 2016. File was then sent to the Principal Secretary (Law & Justice) on 11th May, 2016. Vide communication dated 15th July, 2016, Law Department conveyed its approval to the Director of Prosecution. Thereafter, file was sent to the Standing Counsel (Criminal) on 21st July, 2016 for filing the appeal. Ultimately, the appeal was prepared and was filed on 8th February, 2017.

From the facts narrated above, it is clear that file was not dealt with promptly and expeditiously at every stage and the explanation rendered, is not sufficient enough to explain the inordinate delay of about seven months.

Even on merits, I do not find any perversity in the impugned judgment. As per the prosecution, respondent, while driving a truck bearing registration no. HR-28G-0917 in a rash and negligent manner, hit a cyclist on 23rd December, 2011 at about 8:40 pm in front of ICD Gate, Tughlakabad, New Delhi, resulting in fatal injuries to the cyclist. Injured was removed to the hospital and was declared as brought dead. Incident was witnessed by HC Pratap Singh. Trial court has noted that eye-witness, PW2 HC Pratap Singh, was a planted witness and his testimony cannot be relied

upon. I find the view taken by the trial court to be a plausible view, after perusing the evidence on record.

PW4 SI Deepak is the Investigating Officer. He has deposed that on 23rd December, 2011 he reached the spot at CCI Chowk in front of ICD Gate and found a truck bearing registration no. HR-28G-0917 and one bicyclist in accidental condition. He took the photographs of the spot. He searched for eye-witnesses but none could be found. In the meanwhile, Constable Dhanesh came at the spot and handed over DD No. 22A regarding the MLC of injured. He left Constable Adesh at the spot and went to AIIMS Trauma Centre with Constable Dhanesh. He collected MLC of injured and returned the spot. He again searched for eye-witnesses. He met HC Pratap Singh, who claimed himself to be the eye-witness. He recorded his statement Ex. PW2/A and pursuant thereof an FIR was registered. PW2 HC Pratap Singh has claimed himself to be eye-witness of the incident. According to him, the accident took place in his presence. He has stated that PCR arrived at the spot and took the injured to hospital. Admittedly, he did not accompany the injured to the hospital. Then where was he when SI Deepak reached there? Had PW2 HC Pratap Singh been present at the spot, he would have certainly met PW4 SI Deepak. However, as per SI Deepak, no eye-witness was

present at the spot when he reached there along with Constable Adesh. In my view, PW2 HC Pratap Singh would have certainly apprehended the respondent had he been present at the spot but he did not do so. According to him, respondent helped him, in order to pick up the injured and public had also gathered. However, he stated that had respondent stepped away from there. This story appears to be improbable.

Be that as it may, application is dismissed. Consequently, appeal is also dismissed as time barred.

A.K. PATHAK, J.

MARCH 09, 2017
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