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

+ **CrI.L.P.181/2016**

NIHAL SINGH

..... Petitioner

Through: Mr.Keshav Dayal, Sr.Adv. with
Mr.Abhilash Mathur and Mr.Ramit
Rana, Advs.

versus

DEEPCHAND

..... Respondent

Through: Mr.Mukul Sharma, Adv.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **19.07.2017**

CrI.M.A.4741/2016 (delay)

For the reasons stated in the application, the delay of 392 days in preferring the appeal is condoned.

The application is allowed.

CrI.L.P.181/2016 & CrI.M.A.10519/2016

The present leave petition is directed against the judgment and order of acquittal dated 22.12.2014 whereby the respondent has been acquitted of all charges under Sections 427/351/323/342/34 of the IPC.

It has been alleged that on 20.08.1980, local police officials reached the village of the petitioner for undertaking demolition as per the direction of the learned SDM under Section 133 Cr.P.C. A “*pucca chabutara*” situated in front of the house of the petitioner was removed despite there

being stay over demolition of the said structure. The father and the wife of the petitioner raised objections against the demolition but no heed was paid. Because of the objections raised by the father and wife of the petitioner, the respondent and one Prahlad Singh instigated the ACP to arrest them. On such instigation, the wife of the petitioner was physically manhandled and abused. The other accused persons trespassed into his house and made an attempt to outrage the modesty of the wife of the petitioner. Certain valuables belonging to the wife of the petitioner were also taken away. The incident allegedly took place in the absence of the petitioner because of enmity with one of the co-accused Prahlad Singh (since deceased).

It appears that the respondent and one Prahlad Singh were summoned by the Court whereas the other accused persons were discharged. Later the respondent and Prahlad Singh (since deceased) were also discharged by the Trial Court. However, the aforesaid order of discharge was set aside by the Court of the learned ASJ vide order dated 13.03.2007.

During the pre-charge evidence, three witnesses were examined namely the petitioner, his wife and his son. Thereafter charges were framed under Sections 427/34, 323/342 and 351 of the IPC against the respondent and Prahlad Singh. The proceedings against the aforesaid Prahlad Singh abated as he died on 27.06.2009.

The post charge evidence was closed on the statement of the petitioner on 06.10.2007. Thereafter the petitioner never appeared before the Court despite reminders to him.

From the materials available on record, the Trial Court was of the view that no offence could be made out/substantiated against the respondent. The petitioner was admittedly not present at the time of the occurrence,

which fact was affirmed by his wife Smt.Ratni. Thus he could not be said to have had any personal information of what happened on the day of the occurrence. Similarly, CW-4, Anil Kumar also was not found to be an eye witness to the incident. He deposed before the Court only on the information provided to him by his mother.

The Trial Court took note of the fact that there was no fodder cutting machine and handpump at the Chabutara of the petitioner.

The wife of the petitioner, in her pre-charge evidence, stated that she had not disclosed the fact of snatching of chain by the respondent to any person in the village. The Trial Court found that severe embellishments were made by her in her later statement.

No independent person was examined to substantiate the charges of trespass and other offences for which the respondent has been charged.

Taking into account the aforesaid set of facts, the respondent was acquitted of all charges.

This Court finds no reason to interfere with the judgment and order of acquittal.

Leave declined.

Dismissed.

ASHUTOSH KUMAR, J

JULY 19, 2017

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