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

+ CRL.L.P. 153/2017 & Crl.M.A. 4467/2017 (Delay)

STATE

..... Petitioner

Through Mr.Akshai Malik, APP with SI Hawa
Singh, PS Madhu Vihar.

versus

DINESH KUMAR GUPTA

..... Respondent

Through Nemo.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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17.03.2017

The present petition has been filed by the State under Section 378(1) for the Cr.P.C. for the grant of leave to file the appeal against the order/judgment dated 26.05.2016 passed by the Court below in Sessions Case No.565/2016 in FIR No.531/2013, under Section 354/509 IPC and Section 8 of the POCSO Act, Police Station Madhu Vihar.

An application Crl.M.A. 4467/2017 has been filed along with the main petition for condonation of delay.

There is no convincing ground in the entire application to condone the delay. The petitioner has failed to give sufficient explanation which prevented it to file the petition well within the time. Consequently, the State has failed to justify the delay in filing the present petition. The application is accordingly dismissed.

The facts of the present matter are that FIR in question was registered against the respondent/accused with the allegations that he harassed the prosecutrix. It was alleged that the accused being Chowkidar of the Apartment complex asked the prosecutrix to sit on a chair and pulled her cheeks. Since the prosecutrix was a minor girl, Section 8 of the POCSO Act was added. After completion of investigation, charge sheet was filed in the Court for the offences under Sections 354/509 IPC and 8 of the POCSO Act and charge under the said sections was framed against the accused. Vide judgment dated 26.05.2016, the trial court acquitted the accused/respondent.

It has been submitted by the learned APP for the State that the respondent/accused has been acquitted by the trial court vide judgment dated 26.05.2016 while observing that there are number of inconsistencies and contradictions in the statement of the prosecutrix; the incident was of harassment of the prosecutrix and there was no eye witness to the alleged incident.

It is apparent from the judgment passed by the trial court that the respondent/accused was acquitted by the trial court while observing that except the fact that the accused pulled her cheeks, nothing else happened with the prosecutrix. It was further observed that there was no eye witness to the incident and the case was based on the sole testimony of the victim who did not support the allegations. On the basis of said observations, the respondent/accused was acquitted.

It is also apparent from the record that the judgment of acquittal

was passed on 26.05.2016 and about a year has passed since then.

In view of the above mentioned facts and circumstances, no ground is made out to grant leave to the State to file the appeal. Consequently, the present petition to grant the leave is dismissed.

P.S.TEJI, J

MARCH 17, 2017
dd