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

+ CRL.L.P. 512/2016

STATE (NCT OF DELHI)

..... Petitioner

Through : Dr. M. P. Singh, APP with SI Alok
Vajpayee PS Kashmere Gate.

versus

ANIL KUMAR

..... Respondent

Through : Mr. J. S. Kanwar, Adv. with
respondent in person.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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15.03.2017

Crl.M.A.14789/2016 (Delay)

For the reasons as stated in the application, delay is condoned.

Application is disposed of.

CRL.L.P. 512/2016

Respondent has been acquitted by the trial court for the offences under Sections 279/337/304-A IPC. By this petition under Section 378(1)(b) of Cr.P.C., petitioner has prayed for grant of leave to appeal against the acquittal of respondent.

Trial court has acquitted the respondent in view of the several material contradictions, as noted in the impugned judgment. Trial court has also concluded that identity and arrest of respondent was under the cloud of

doubts.

I find the view taken by the trial court to be a possible view. I do not find the view taken by the trial court to be perverse.

As per the prosecution, respondent, while driving the RTV bearing no.DL-IV-7772 in rash and negligent manner, knocked down a two wheeler scooter bearing no. DL-6SF-2062 at Chowk ISBT, Kashmere Gate on 5th August, 2002 at about 9:00 pm. As a result of impact, PW-2 Naresh Kumar sustained simple injuries; whereas another occupant Vinod died. In his statement under Section 161 Cr.P.C. dated 6th August, 2002 PW-2 Naresh Kumar, had given the vehicle number, however, in his cross examination, he stated that he had disclosed the vehicle number for the first time in police station on 10th August, 2002. If he gave vehicle number for the 1st time on 10th August, 2002 then how it could find mentioned in his statement under Section 161 Cr.P.C. dated 6th August, 2002. PW-2 Naresh Kumar also admitted in his cross examination that he had not given the description of respondent in his statement.

As per the prosecution, TIP of respondent was applied by the Investigation Officer on 21st October, 2002. It is also a case of prosecution that respondent had refused to participate in TIP. Trial court has noted that

PW-2 had admitted in his supplementary statement that respondent was already shown to him on 10th August, 2002 in the police station, accordingly, TIP was merely a formality and futile exercise. Trial court has also noted that there were discrepancies in the arrest memo of respondent. As per the arrest memo, respondent was arrested on 10th August, 2002. However, bail bond given by him in the police station reflected the date as 9th August, 2002. PW-2 Naresh Kumar, PW-13 Sarla (registered owner) and PW-15 Inspector Narender Khatri stated that respondent had fled from the spot and was arrested only on 10th August, 2002; whereas PW-8 Ct. Bharat Lal stated that respondent was arrested at the spot. As per the prosecution also, respondent had fled from the spot and was later produced in the police station by the owner of the vehicle, that is, PW-13 Sarla. Offending vehicle was also not recovered from the spot nor the respondent was arrested from the spot as per the PW-2, PW-13 and PW-15, however as per PW-8 Ct. Bharat Lal he was arrested from the spot. In his statement under Section 161 Cr.P.C. dated 6th August, 2002, PW-2 Naresh Kumar stated that he had noted down the registration number of the offending vehicle, however in his cross examination, he contradicted by saying that he had disclosed the registration number of vehicle on 10th August, 2002 for the first time in the

police station.

For the foregoing reasons, petition is dismissed.

A.K. PATHAK, J.

MARCH 15, 2017/dk