

\$~33

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

+ CRL.L.P. 606/2016

STATE (GNCT OF DELHI) Petitioner
Through: Ms.Neelam Sharma, APP.

versus

SUSHIL KUMAR SINGH Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

% **ORDER**
08.05.2017

Crl.M.A.17686/2016

Exemption allowed, subject to all just exceptions.

Application is disposed of.

Crl.M.A.17685/2016

For the reasons stated in the application, the delay of 29 days in filing the present leave petition is condoned.

Application is allowed.

CRL.L.P. 606/2016

The State has questioned the judgment and order dated 29.06.2016 whereby the respondent No.2 has been acquitted of the charges under Sections 279/304A IPC.

An accident took place on 08.11.2010 at Ring Road, opposite Gupta Market, Lajpat Nagar, New Delhi where, on account of rash and negligent

driving by respondent No.2, one J.P.Verma was hit leading to his death.

Respondent No.2 was put on trial for offences under Sections 279/304A IPC.

After examining six witnesses on behalf of the prosecution, the Trial Court acquitted respondent No.2 of all the charges.

Nand Kishore Verma (PW-1) is the son of the deceased who saw the respondent coming on a motorcycle from the ring road side and hitting his father. PW-1 thereafter started searching for a vehicle to take his father to the hospital and in his absence only, his father was shifted to the hospital where he died. PW-1 has stated that he gave his statement to the police and also identified the respondent No.2 on 28.11.2005 at the police station.

Dr.Arvind Kumar (PW-2) has deposed before the Trial Court that the cause of death was head injury, caused by hard and blunt impact and all the injuries were ante-mortem in nature.

Manoj Saxena (PW-3), Authorised Medical Administrator from Moolchand Hospital and T.U.Siddiqui (PW-4), who conducted the mechanical inspection of the motorcycle of the respondent have supported the prosecution version.

However, Constable Praveen Kumar (PW-5) deposed before the Trial Court that on the day the accident took place, he found the deceased at Moolchand Hospital. He has further stated that on the same day he went to the spot of accident where he found the offending motorcycle and the respondent who disclosed before him that he was driving the offending vehicle. The vehicle was thereafter seized.

The Trial Court, therefore, has disbelieved the prosecution version in as much as it was highly inexplicable as to why the respondent No.2 was not

arrested at the spot, at the time of seizing of the vehicle when he was present there. The Trial Court also took note of the fact the IO first went to Moolchand Hospital where he did not meet any eye witness; but PW-1 in his statement has asserted that he met the police in the hospital and narrated the incident.

No other eye witness has been examined.

From the MLC of the deceased, it appears that he was admitted in hospital by one Rakesh Dutta, a member of the public who has not been examined at the trial. The case history in the MLC further reflects that the injuries were suffered in a road accident because of a car. Respondent No.2, however, is said to have been driving the motorcycle which met with the accident.

The Trial Court thus was of the view that the basic ingredient, of Sections 279/304A of the IPC viz. the accused driving the vehicle in a rash and negligent manner, causing injuries to the victim, has not been proved. Hence respondent No.2 was acquitted by the impugned judgment.

There is no reason to differ with the judgment impugned.

Leave declined.

The petition is dismissed.

ASHUTOSH KUMAR, J

MAY 08, 2017

k