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

+ CRL.L.P. 535/2017

STATE (GOVT OF NCT OF DELHI) Petitioner

Through Ms.Neelam Sharma, APP.
ASI Hari Ram, PS Dwarka.

versus

SMT NIDHI SHOKEEN Respondent

Through

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **13.09.2017**

Crl.M.A. 15228/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

Crl.M.A. 15227/2017 (condonation of delay)

Heard.

For the reasons stated in the application, the delay of 45 days in preferring the leave petition is condoned.

Application is allowed.

CRL.L.P. 535/2017

The petitioner/State is aggrieved by the judgment dated 26.4.2017 passed in connection with FIR No.247/2014 (PS Dwarka Sector 23) instituted for the offence under Sections 279/337 and 304 of the IPC, whereby the respondent has been acquitted of all the charges.

The respondent was alleged to have driven a santro car bearing registration No.DL-4CAP-5621 which hit two ladies who were walking on foot and out of them, one succumbed to the injuries.

The case was initiated on the statement of one Rohtas who alleged that on 25.5.2014, while he was walking outside his village, he found that two ladies of the same village were also walking. Later, one santro car came from the side of the village and hit the aforesaid ladies. The driver stopped the vehicle and aforesaid Rohtas took the injured ladies to the hospital. It was only later that he realised that the injured ladies were his mother and the aunt. The aunt of Rohtas, namely, Krishna Devi was declared to have been brought dead. On his information, a case was registered under Sections 279/304A of the IPC.

During the trial, 14 prosecution witnesses were examined including Rohtas (PW-1) and the mother of Rohtas, namely, Brahma Devi (PW-3). The trial court found the deposition of PWs 1 & 3 to be unbelievable and thus discarded the same.

Rohtas, PW-1 had stated before the trial court that he had met police official in the hospital and had told them about the accident. However, the I.O. of the case, SI Sant Ram, who has been examined as PW-9, stated that no eye witness was to be found at the spot or at the hospital. The Rukka which was prepared by PW-9 also indicates that the I.O. had not met any eye witnesses in the hospital. The case diary of 25.5.2014 reveals that investigation began at 11:00 p.m. and was completed by 12:00 p.m. Though, the case diary recorded the statement of witnesses but no statement of Rohtas was recorded on that date. This led the trial court to doubt the presence of PW-1 at the time of the accident. The MLC which was prepared

at the hospital also indicates that the injured was brought by one Baljeet who has not been examined by the investigation officer. That PW-1, only later realised that the victims were his mother and aunt, was not acceptable to the trial court as the correct version of the incident.

Similarly, the statement of Brahma Devi, PW-3, the survivor of the accident, is also redolent with doubt and suspicion as regards the presence for PW-1 at the place of occurrence.

Thus the trial court has justifiably acquitted the respondent of all the charges.

The view of the trial court is neither incorrect nor perverse to warrant any interference by this Court.

Leave is accordingly declined and the petition is dismissed.

ASHUTOSH KUMAR, J

SEPTEMBER 13, 2017

Bisht