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

+ **CRL.L.P. 698/2017**

THE STATE GOVT OF NCT OF DELHI Petitioner
Through: Ms.Radhika Kolluru, APP along with
S.I.Bharat Singh, P.S. Farsh Bazar.

versus

VINOD PASWAN Respondent
Through: None.

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE I.S. MEHTA**

ORDER

% **06.12.2017**

1. The State seeks leave to appeal against the judgment dated 5th August 2017 passed by the learned Additional Sessions Judge, Shahdara, Karkardooma Courts, Delhi, convicting the Respondent for the offence under para II of Section 304 IPC and Section 174A IPC and sentencing him accordingly. The State seeks leave to appeal only on the ground that the conviction ought to be under Section 302 IPC.

2. The eye witness in this case is one Pramod Paswan (PW-1), who was present at the time when the accused, Vinod Paswan, inflicted two stab injuries on the deceased. The manner of description of incident by Pramod Paswan (PW-1) is that the three of them, along with another person, Raghuveer, were consuming liquor. The accused asked the deceased to cook food. The deceased refused saying that he was not a servant. This led to a

scuffle. In that scuffle, the deceased caught hold of the shirt of the accused and the accused thereafter stabbed the deceased with the knife in the neck which proved to be fatal.

3. From the description of the incident by PW-1, it is plain that the injury was inflicted as a result of a sudden fight and therefore, answers the description of culpable homicide not amounting to murder.

4. No ground is made out for altering the conviction from one under para II of Section 304 IPC to the one under Section 302 IPC. The petition is accordingly dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

DECEMBER 06, 2017

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