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

+ **CRL.L.P. 735/2017**

STATE OF NCT OF DELHI

..... Petitioner

Through: Ms.Radhika Kolluru, APP along with  
S.I. Sonu Dagar, P.S. Aman Vihar.

Versus

NAZIR HUSSAIN & ORS.

..... Respondents

Through: None

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

**ORDER**

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**21.12.2017**

**Crl.M.A. 21255/2017 (exemption)**

1. Allowed subject to all just exceptions.

**Crl.M.A. 21256/2017 (for delay) & Crl.L.P 735/2017**

2. This is an application under Section 5 of the Limitation Act seeking condonation of delay of 108 days in filing the criminal leave petition.

3. It is stated that although the impugned judgment is dated 28<sup>th</sup> February 2017, “considerable time was taken in procuring the certified copy of the judgment which was finally received on 18<sup>th</sup> July 2017”. As to why five months’ time was taken to obtain a certified copy of the judgment is not explained. There appears to be further delay at every stage thereafter. It is

stated that the learned APP has opined that the case was not fit for an appeal which has been concurred with by the learned Chief Prosecutor on 20<sup>th</sup> July 2017. Thereafter the file remained in the office of the Secretary (Law & Justice) from 26<sup>th</sup> July onwards. It was only on 28<sup>th</sup> November 2017 that the Law Department finally gave its opinion that an appeal is to be filed. This inordinate delay of four months in the Law Department giving its opinion has again not been explained.

4. The Court is, therefore, not satisfied that the delay of 108 days is for *bona fide* reasons and, therefore, should be condoned.

5. Nevertheless the criminal leave petition has also been examined on merits. The State seeks leave to appeal against the impugned judgment dated 28<sup>th</sup> February 2017 passed by the learned Additional Sessions Judge (North-West District) in Sessions Case No. 108 of 2015 arising out of FIR No. 318 of 2010 registered at Police Station (PS) Aman Vihar acquitting the Respondents for the offences under Sections 302/323/376/366/452/506/147/149 of the Indian Penal Code (IPC) and under Sections 25/54/59 of the Arms Act.

6. The case of the prosecution is that on 31<sup>st</sup> October 2010 all the accused persons entered into the house of the complainant armed with weapons in furtherance of common object of killing Ruman Lal (the father of the complainant); they committed house trespass and intentionally struck Ruman Lal against cemented platform repeatedly as a result of which he died. The prosecution case is further that the accused gave beatings to Arun, Sanjana and P (the prosecutrix), daughter of Ruman Lal and wife of

Accused No. 4 (A-4).

7. During the course of the trial, three of the star witnesses who are supposed to have actually witnessed the occurrence turned hostile and did not support the prosecution. Amongst them was P who disclosed that even prior to 31<sup>st</sup> October 2010 (the date of incident) she got married to A-4 but the family members of either of them were not aware of this fact. P was pregnant on the date of incident. P gave birth to a girl child nearly one month later on 22<sup>nd</sup> November 2010. According to P, on the date of incident some of her brothers who were opposed to her marriage to A-4 along with her father got drunk. A quarrel took place between her brothers on the one side (who were opposed to her marrying A-4) and her father (who was supporting it) on the other. Her father sustained head injuries and expired the next morning.

8. Strangely, even the wife of the deceased, PW-12, did not support the prosecution. She admitted that her daughter had married in a temple and had become pregnant. She failed to depose anything further about the incident. She also deposed that her son and her husband quarrelled on the issue of pregnancy of P. She deposed that presently P was residing at her matrimonial home.

9. Even Sanjana (PW-17), the daughter-in-law of the deceased and wife of PW-1 did not support the prosecution. She did not support the version of PW-1 (her own husband). As regards the injuries suffered by her, she deposed that she sustained them from “the bangles of her mother-in-law when she was beating.” Therefore, it is plain that all the three women in the

family, i.e., wife of the deceased (PW-12), his daughter P and his daughter-in-law (PW-17) did not support the prosecution.

10. In the circumstances, the conclusion drawn by the trial Court that the prosecution has miserably failed to prove the case against the accused cannot be said to be perverse and calling for interference. Although many of the independent PWs supported the prosecution the aforementioned 3 natural witnesses did not. In the circumstances the trial Court did not err in granting benefit of doubt to the accused.

11. No ground has been made out for grant of leave.

12. The petition and the application are dismissed.

**S. MURALIDHAR, J.**

**I.S. MEHTA, J.**

**DECEMBER 21, 2017**

*Rm*