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

+ **CRL.L.P. 62/2018**

STATE (NCT OF DELHI)

..... Petitioner

Through: Ms.Kusum Dhalla, APP along with
Insp. Ravi Kant, SHO, P.S. Karawal Nagar.

Versus

ANKIT

..... Respondent

Through: None.

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

ORDER

30.01.2018

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Crl.M.A.No.1622/2018 (delay of 55 days in filing)

1. For the reasons stated in the application, the delay in filing is condoned and the application is disposed of.

Crl.L.P.No.62/2018.

2. This petition by the State seeks leave to appeal against a judgment dated 17th July, 2017 passed by the learned Additional Sessions Judge-03, North-East, Karkardooma Courts in S.C.No.45048/2015 arising out of the FIR No.263/2015 registered at Police Station (P.S.) Karawal Nagar whereby the Respondent was convicted for the offence under Section 325 IPC and sentenced to the period already undergone, i.e., 1 year 1 month and 2 days.

3. The State is in appeal to the extent that the Respondent who was charged with the offence under Section 307 IPC was not convicted for that offence but for a lesser offence under Section 325 IPC.

4. The Respondent was alleged to have beaten a boy aged 12-13 years at Gali No.8, Phase-VII, Shiv Vihar, Karawal Nagar, Delhi. On analysing evidence of the injured witness and also that of the other eye witnesses, the trial Court came to the conclusion that while the assault on the victim by the Respondent stood proved, the medical evidence did not substantiate that the injuries were life threatening. Dr. Ritu Raj (PW-3) had noticed six injuries caused by blunt object but the use of any dangerous weapon like a knife to cause the injuries was not proved. There was also no evidence that the Respondent had intention or knowledge to kill the injured or attempt to kill the injured with the knowledge that such injury would cause death. With these vital ingredients comprising Section 307 IPC not being fulfilled, the trial Court converted the offence into one punishable under Section 325 IPC.

5. The learned APP was unable to persuade this Court that the above reasoning and conclusion reached by the trial Court was erroneous. It was then urged that there should have been at least a substantial fine amount which would have helped the injured victim. The Court finds that in the order of sentence it is noted out that the accused himself was undergoing some medical treatment at the relevant time at the IHBAS Hospital. He also belongs to the economically weaker class of the society. In that view of the matter, imposing a fine amount on the Respondent would not serve the ends of justice.

6. For the aforementioned reasons, the Court finds no ground is made out for granting leave to appeal. The petition is accordingly dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

JANUARY 30, 2018
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