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

**DECIDED ON : 16<sup>th</sup> FEBRUARY, 2018**

+ **CRL.REV.P. 132/2018**

STATE (GNCT OF DELHI) ..... Petitioner  
Through : Mr.Tarang Srivastava, APP with SI Jaivind  
Kumar, PS Kalyanpuri.  
versus  
NEERAJ ..... Respondent  
Through : None.

**CORAM:**  
**HON'BLE MR. JUSTICE S.P.GARG**

**S.P.GARG, J. (Oral)**

**CRL.M.A.No. 2911/2018 (Exemption)**

Exemption allowed subject to all just exceptions.

The application stands disposed of.

**CRL.M.A.No. 2910/2018 (Delay)**

1. For the reasons mentioned in the application for condonation of delay in filing the petition, the delay is condoned.
2. The application for condonation of delay is disposed of.

**CRL.REV.P. 132/2018**

1. Present revision petition has been filed against the respondent by the State to challenge the legality and correctness of an order dated 09.08.2017 of learned Addl. Sessions Judge by which the respondent was discharged of the commission of the offences

punishable under Sections 363/376 IPC and Section 4 POCSO Act in case FIR No.491/2016 registered at PS Kalyanpuri.

2. I have heard the learned APP for the State and have examined the file. Record reveals that the victim's father had lodged a missing report after a delay of two days when the victim did not return to home. The victim and the respondent had filed a joint petition bearing W.P.(Crl.) 754/2017 on 09.03.2017 before this Court to seek protection. The petition came up for hearing before this Court on 09.03.2017 and 29.03.2017. It was informed to the Court that both the prosecutrix and respondent were living together. Initially, the prosecutrix was not willing to go to her parents' house and was sent to Sanskar Ashram on 09.03.2017. On 29.03.2017, however, after counselling, the victim agreed to return to her parental home. This Court allowed both the victim and the respondent to meet once in a fortnight at a specified time to be agreed upon mutually in a public park in the presence of victim's parents. Certain restrictions were also imposed upon the victim's parents that she would not be married till the age of 18 years and shall not be taken out of Delhi without her consent. The said petition came to be disposed of with certain observations on 29.03.2017.

3. In the MLC, the hymen was found 'old' torn. Statement given to the medical officer was that the victim had married the respondent with her free will on 10.12.2016 and was staying with him since then. No external injury was found on victim's body. In her 164 Cr.P.C. statement recorded on 14.03.2017, she informed that she herself had gone with her husband and lived with him after performing

marriage. She showed inclination to live with the respondent. Only on 29.03.2017, in the statement under Section 161 Cr.P.C., it is alleged that certain allegations were levelled by the prosecutrix against the respondent for forcible relations.

4. The Trial Court has discussed the statements of the prosecutrix made before this Court as well as before the learned Presiding Officer under Section 164 Cr.P.C. and she did not implicate the respondent for enticing her or establishing physical relations against her consent. Throughout, case of the respondent was that she was having affair with the respondent and they had performed marriage. Since she had apprehension at the hands of her parents as the marriage was to their disliking, they had approached this Court to seek protection.

5. Nothing material emerges on record to proceed against the respondent for commission of offences under Sections 363/376 IPC as the prosecutrix had accompanied the respondent with her free consent and the marriage had taken place between the two.

6. No ingredients of Sections 363/376 IPC are attracted. The impugned order suffers from no illegality or irregularity.

7. The revision petition is dismissed being unmerited.

**(S.P.GARG)**  
**JUDGE**

**FEBRUARY 16, 2018 / tr**