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

+ **CRL.L.P. 249/2018**

STATE

..... Petitioner

Through: Mr. Rajat Katyal, Additional Public
Prosecutor for the State with SI Sumit
Kumar, PS – Aman Vihar

versus

VARUN SHARMA & ANR.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

% **19.04.2018**

CRL.M.A. 7102/2018 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of accordingly.

CRL.L.P. 249/2018

The State has preferred the present leave petition to seek leave to appeal against the judgment dated 29.01.2018 passed by learned ASJ-03, North West District, Rohini Courts, Delhi in Sessions Case No. 24/2015 arising out of case FIR No. 482/2015, registered at Police Station - Aman Vihar, Delhi under Sections 302/34 IPC.

By the impugned judgment, the trial Court has acquitted the respondents/accused of the charges framed against them. The background in which the trial was initiated against respondents is taken from the impugned judgment, which reads as follows:

‘1. Stated in brief, allegations against accused persons were to the effect that sometime after 10 pm on 09.04.2015 and before 16.04.2015 they had committed murder of one Rajender in house no. A-25, Parvesh Nagar, Mubarakpur Dabas, Delhi. In fact, as per allegations, deceased Rajender was last seen in company of the accused persons at 10 pm on 09.04.2015 and his dead body recovered on 16.04.2015.’

The trial court has acquitted the respondents on account of lack of circumstantial evidence in the case. PW-3 stated that he had seen the accused entering the house of the deceased, and the deceased was not seen alive thereafter. The trial court has rejected the said evidence on the premise that, even according to PW-3, the witness who claimed to have seen the respondents, did not see the accused and the deceased together. Moreover, it was claimed that PW-3 had seen the accused entering the premises of the deceased carrying a TV and DVD with them on 09.04.2015. However, the deceased was found dead on 16.04.2015, that is, after a lapse of one week. Moreover, the post mortem report fixes the approximate time since death as 17 ½ days. The trial court has disbelieved the said explanation on the

premise that it was based on the inquest documents only. No other evidence was produced by the prosecution to blame the accused.

Keeping in view all these circumstances, we are of the opinion that the impugned judgment does not call for any interference.

Leave petition is dismissed.

VIPIN SANGHI, J

P.S.TEJI, J

APRIL 19, 2018

PB