

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

% *Decided on: 30th July, 2018*

+ **CRL.L.P. 487/2018**

STATE

..... Petitioner

Represented by: Ms. Rajni Gupta, APP for the
State with SI Ramesh Kumar,
PS Sultanpuri

versus

INDERJEET SINGH

..... Respondent

Represented by: None

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J. (ORAL)

Crl.M.A. No.28773/2018 (Exemption)

Allowed, subject to just exceptions.

Crl.M.A. No.28772/2018 (Delay)

For the reasons stated in the application delay of 7 days in filing the leave to appeal petition is condoned.

Application is disposed of.

CRL.L.P. 487/2018

1. Aggrieved by the judgment dated 3rd April, 2018 whereby the learned District & Sessions Judge acquitted the respondent for the offence punishable under Section 328 IPC, the State has preferred the present leave petition.

2. Sequence of events leading to the prosecution case are that a call was received from Ct. Satish Kumar from SGM Hospital on 11th May, 2006 at about 2:20 P.M. about one lady being admitted in the hospital by one Lata. Aforesaid information was recorded vide DD No. 48B (Ex.PW-4/A) and

assigned to SI Giriraj (PW-6). He along with Ct. Rajender Singh (PW-1) went to SGM Hospital where Rajni Kaur @ Nikki was found to be admitted. Her MLC was obtained and she was unfit for statement. On 13th May, 2006, SI Giriraj (PW-6) along with Ct. Rajender Singh (PW-1) again went to the Hospital and recorded the statement of Rajni Kaur @ Nikki wherein she stated that she got married to Inderjeet (respondent herein) on 5th February, 2003 as per Hindu rites and ceremonies and from the said wedlock, they have a child. Since Inderjeet used to beat and torture her mentally and physically, she remained with him only for 3 months after the marriage and thereafter she came to her parental house. On 10th March, 2006, Inderjeet took her to the matrimonial house and on 24th March, 2006, he dropped her back at her parental house. She had also filed a maintenance case against Inderjeet. On 11th May, 2006, at about 11:30 A.M., when she was alone in the house, Inderjeet came to her parental house and asked her to bring campa cola. After pouring campa cola in the glass, he forced her to drink. She stated that since campa cola had turned white, she refused to drink, however, Inderjeet forcefully made her drink campa cola and thereafter he went away from there after washing and cleaning her mouth and glass. After 30 minutes, she started feeling sick and started vomiting. She told her neighbour Soorajpal about it who took her to Sanjay Gandhi Memorial Hospital and got her admitted. She also stated that she had started becoming unconscious.

3. On the basis of aforesaid statement (Ex.PW-3/A), FIR No. 735/2006 (Ex.PW-2/A) was registered at PS Sultan Puri for the offence punishable under Section 328 IPC.

4. During the course of investigation, Inderjeet was arrested vide arrest

memo Ex.PX and his personal search was conducted vide memo Ex.PX-1. One small bottle containing gastric lavage of Rajni Kaur @ Nikki was seized vide seizure memo Ex.PW-1/A. Site plan was prepared at the instance of Rajni Kaur @ Nikki vide Ex.PW-6/B. After completion of investigation, charge sheet was filed.

5. Rajni Kaur @ Nikki was examined as PW-3. In her testimony she stated that when Inderjeet came to her parental house on 11th May, 2006, he was having a bottle of coca-cola with him, however, in her complaint, she had stated that Inderjeet had asked her to bring campa cola. She alleged that campa cola had turned white but she was totally silent, both in her complaint and court deposition, about the substance or tablet or powder which Inderjeet had put in the glass. Furthermore, she did not object or raised any alarm which doubts on her version. It is not easy to force a grown up lady of 22 years to drink cold drink in a glass without there being any resistance from her side. There is no mention of her resistance from drinking campa cola. She stated in her complaint that she informed Soorajpal, her neighbour, who brought her to the Hospital, however, as per the MLC, she was admitted by one Lata. Soorajpal has not been examined as a witness. Neither the bottle of campa cola nor the glass in which campa cola was alleged to be poured was seized during the investigation.

6. As per the FSL report Ex. PW-7/A, gastric lavage was found to contain Diazepan. Diazepan is a medicine used to treat anxiety, relieve muscle spasm. However, as per the prosecutrix the campa cola turned white, which reaction does not take place with Diazepan.

7. For the discussion aforesaid the findings of the learned District & Sessions Judge that the evidence of the complainant is not reliable cannot be

said to be perverse. Hence, the impugned judgment acquitting the respondent does not warrant interference by this Court.

8. Leave to appeal petition is dismissed.

(MUKTA GUPTA)
JUDGE

JULY 30, 2017
‘yo’

