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

+ **CRL.L.P. 538/2018**

STATE (GNCTD)

..... Petitioner

Through: **Mr.Rajat Katyal, APP for the State
with SI Naveen Kumar, PS Kapashera**

versus

ANIL RANA @ DHANA & ORS

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

16.08.2018

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CRL.M.A. No. 30056/2018

Exemption is allowed, subject to all just exceptions. The application is accordingly disposed of.

CRL.L.P. 538/2018

The state has preferred the present petition to seek leave to appeal against the judgment dated 28.05.2018, passed by the learned ASJ-05 (South West), Dwarka Courts in Sessions Case No. CNR No. DLSW01-000713-2013, titled *State vs. Anil Rana @ Dhana & Ors.*, arising out of FIR No. 40/2013, registered at PS Kapashera, under Sections 307/201/34 IPC & 27 Arms Act.

We have Mr. Katyal, learned APP for the State and perused the impugned judgment. As per the case of the prosecution, apart from the

injured-PW3, PW1 and PW2 were the other eye witnesses to the offence. However, PW1 and PW2 turned hostile and did not support the case of the prosecution. Though the injured/ victim PW3 did suffer the injury, as found in his MLC, the weapon of offence was never recovered. Moreover, PW3 also admitted that there was a previous enmity between the accused and the injured. The said background cuts both ways as it is possible that the injured may have been attacked by the accused and it is equally possible that the accused had been falsely implicated by the injured. The defence has also led their witness— DW1 who was also present at the site of occurrence and who has deposed in favour of the defence to say that the accused had not attacked the injured.

In our view the impugned judgment does not call for interference.

The petition stands dismissed in the aforesaid terms.

VIPIN SANGHI, J

I.S.MEHTA, J

AUGUST 16, 2018

N.Khanna