

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

% Decided on: 20th September, 2018

+ **CRL.L.P. 612/2018**

STATE

..... Petitioner

Represented by: Ms. Rajni Gupta, APP for the
State

versus

MOHD. FURQAN & ANR.

..... Respondents

Represented by: None

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

MUKTA GUPTA, J.

Crl. M.A. No. 32578/2018 (Exemption)

Exemption allowed subject to just exceptions.

Crl. M.A. No. 32652/2018 (Delay)

For the reasons stated in the application, delay of 3 days in filing the leave to appeal petition is condoned.

Application is disposed of.

CRL.L.P. 612/2018

1. Aggrieved by the judgment dated 21st May, 2018, whereby the learned Additional Chief Metropolitan Magistrate acquitted the respondents for offences punishable under Sections 279/338 IPC and 146/196 of the Motor Vehicles Act, 1988 (in short 'MV Act'), State has preferred the present leave petition.

2. Briefly stated, as the prosecution case is that on 20th August 2015 at 5:00 P.M. respondent No.1 was found driving a Pulsar motorcycle bearing number DL 4S BC 7192 at Red Light Metro Pillar No. 130, Gulabi Bagh,

Delhi without insurance policy on public way in a rash and negligent manner. Respondent No.1 hit the complainant Pawan Yadav due to which he fell down and sustained grievous injury. On receipt of DD No.17A Ct. Rinku alongwith HC Babu Lal reached the spot wherein they found out that the injured had been taken to Hindu Rao Hospital. HC Babu Lal recorded the statement of the injured vide Ex.PW-1/A and returned to the spot. He took the rukka to the police station for registration of FIR and got registered FIR No.212/15 under Sections 279/338 IPC and 146/196 MV Act at PS Gulabi Bagh vide Ex.PW-2/A. On completion of investigation, charge sheet was filed. Charge was framed for offences punishable under Sections 279/338 IPC and Sections 146/196 MV Act against the respondent.

3. Pawan Yadav (PW-1) deposed that on the date of the incident he was going from Kishanganj Market towards Gulabi Bagh. He was crossing the road at the green signal and when he reached the middle of the road, the respondents were driving a motorcycle in rash and negligent manner and hit him as a result of which he fell down and received injuries. The public persons present there, called on 100 number, an ambulance reached the spot and took him to Hindu Rao hospital, where he was medically examined.

4. Arvinder Singh (PW-3) deposed that on 22nd August, 2015 he conducted the mechanical inspection of the motorcycle bearing number DL 4S BC 7192 and prepared a report vide Ex.PW-3/A wherein he found fresh marks on the vehicle and found it fit for road test.

5. Case of the prosecution rests upon the testimony of the complainant Pawan Yadav who merely deposed that when he was crossing the road and reached the middle of the road, one motorcycle driver was driving in a rash and negligent manner as a result of which he fell down and sustained

injuries. He has not deposed as to which of the respondents was driving in a rash and negligent manner. Thus he failed to identify the accused who committed the offence as noted above. No witness has been examined by the prosecution to corroborate the testimony of the complainant. Further the prosecution has failed to clarify whether the green signal was for the pedestrians or the vehicles.

6. Findings of the learned Additional Chief Metropolitan Magistrate are based on evidence on record. Thus this Court concurs with the view expressed by the learned Additional Chief Metropolitan Magistrate. Hence, the impugned judgment acquitting the respondent warrants no interference by this Court.

7. Leave to appeal petition is dismissed.

(MUKTA GUPTA)
JUDGE

SEPTEMBER 20, 2018
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