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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.L.P. 591/2018**

SARITA Petitioner
Through: Mr. Shazeb, Advocate.

versus

STATE (NCT OF DELHI) & ORS Respondents
Through: Mr. Hirein Sharma, APP

CORAM: JUSTICE S. MURALIDHAR
JUSTICE VINOD GOEL

ORDER
% **10.09.2018**

Crl.M.A. 31656/2018 (exemption)

1. Allowed, subject to all just exceptions.

Crl.M.A. 31655/2018 (delay)

2. For the reasons stated in the application, the delay in filing the petition is hereby condoned. The application is disposed of.

CRL.L.P. 591/2018

3. This is a petition by the wife of the victim seeking leave to appeal against a judgment dated 22nd March 2018 passed by learned District & Sessions Judge (East), Delhi, in SC No.457/2016 arising out of FIR No.443/2013 registered at PS Shakarpur acquitting the Respondents under Section 307/302/34 IPC.

4. It must be mentioned at the outset that by an order dated 9th August 2018, this Court has already dismissed the State's CrI. L.P. No.94/2018, seeking leave to appeal against the very same judgment.

5. Nevertheless, the Court has again gone through the evidence and the judgment of the trial Court with the assistance of the learned counsel for the Petitioner and has not been persuaded to come to a different conclusion.

6. There were four eye witnesses examined by the prosecution but their testimonies were riddled with contradictions and inconsistencies which stood exposed in their respective cross-examination. This has been discussed in some detail by the trial Court from paras 35 to 41 of the impugned judgment. These contradictions pertained to the sequence in which the two cars purportedly involved in the incident were travelling. What is strange is that although the complainant's side was supposed be driving the car bearing registration 9245 which had a collusion with a car driven by the accused, i.e. car bearing registration 2955, the FSL report did not indicate any damage whatsoever to the car driven by the complainant. On the other hand, it showed that the car driven by PW-4 was the one involved in a collision with the car driven by the accused.

7. Even the sequence in which the accused persons are supposed to have alighted from their car and then entered into an exchange of fisticuffs and blows with the complainant's side does not appear to

have been consistently described by the four eye witnesses. Clearly the witnesses were speaking at variance with each other and this has been discussed in some detail by the trial Court in the impugned judgment.

8. The lapses of the IO have also been adverted to by the trial Court in para 42 of the impugned judgment as under:

“42. Now coming to the lapses on the part of the IO during the investigation. He did not try to establish on record as to how the beads, thread and broken bangles came to the spot and to whom the same belonged and he did not examined Smt. Babli in this case for the reasons best known to him. PW7 Raju although claims that seizure memo of revolver and cartridges were prepared in his presence and he signed some documents at the spot and some at the police station, but he did not remember the contents of the same. He further deposed that a danda was lying there at the spot, but the IO did not seize the same. Moreover, a sword was also seized, but the IO did not investigate as to whom it belonged and if the same was used in the incident or not.”

9. For the aforementioned reasons, the Court is unable to be persuaded that any ground exists for granting leave to appeal against the impugned judgment of the trial Court.

10. However, learned counsel for the Petitioner draws the attention of the fact that the Petitioner's economic status is poor and she has been left without an earning member of the family after the incident.

11. The Court considers this to be an appropriate case to be referred to the Delhi State Legal Services Authority (DSLISA) for grant of compensation under Section 357A Cr PC. A copy of this order be delivered forthwith through a Special Messenger to the Secretary, DSLISA for making an inquiry into the matter and issue orders without delay for grant of compensation in accordance with the Delhi Victim Compensation Scheme.

12. The petition is dismissed with the above directions.

S. MURALIDHAR, J.

VINOD GOEL, J.

SEPTEMBER 10, 2018

“sandeep”