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

+ **CRL.L.P. 562/2016**

MRS REEMA KACHRU

..... Petitioner

Represented by: **Mr.Vineet Mehta, Advocate**

versus

STATE OF GOVT OF NCT OF DELHI & ANR Respondents

Represented by: **Mr.Amit Ahlawat, APP with SI**
Ranveer Mavi, PS Anand Vihar
Mr.Baldev Raj, Advocate for R-2

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **13.04.2018**

Crl.M.A.No.6720/2018

By this application, the petitioner seeks waiving of cost imposed vide order dated 18th January, 2018. For the reasons stated in the application, cost of ₹3,000/- imposed upon the petitioner is waived.

Application is disposed of.

Crl.M.A.No.16397/2016

For the reasons stated in the application, delay of 15 days in filing the leave to appeal petition is condoned.

Application is disposed of.

Crl.L.P.No.562/2016 & Crl.M.A.No.16936/2016

1. Petitioner lodged FIR No.391/2009 under Sections 323/341/354/506 IPC at PS Anand Vihar, Delhi. During the course of investigation, respondent No.2 was arrested and after investigation was concluded, charge sheet was filed. On recording of the statement of 7 witnesses of the

prosecution including the petitioner as PW-2, the learned Metropolitan Magistrate vide impugned judgment dated 30th July, 2014 acquitted the respondent No.2. The petitioner challenged the said impugned judgment dated 30th July, 2014 by filing a Criminal Appeal No.131/2016 before the learned Additional Sessions Judge which was dismissed vide impugned order dated 16th July, 2016.

2. Though the petitioner preferred the appeal before the learned Additional Sessions Judge against the impugned judgment dated 30th July, 2014 passed by the learned Metropolitan Magistrate under Section 372 Cr.P.C. however as held by the Hon'ble Supreme Court in the decision reported as (2015) 15 SCC 613 Satya Pal Singh Vs. State of Madhya Pradesh, the petitioner was required to seek leave to appeal and could not have filed the appeal straightaway. Admittedly, no leave to appeal was sought before the learned Additional Sessions Judge. Be that as it may, the Additional Sessions Judge vide impugned judgment dismissed the appeal filed by the petitioner on merits.

3. Evidence of the petitioner as PW-2 was that the respondent was residing in her neighbourhood and he used to misbehave and harass her by making obscene gestures and using filthy words towards her. It is alleged that on 27th August, 2009, the petitioner had gone to Cross-River Mall for shopping in her car. On seeing the petitioner in the car, respondent No.2 followed her on the bike and when she reached the Cross-River Mall and was about to park the car, he hit her car from the front side by his bike, stopped her from entering in the parking and thereafter, he forcibly opened the door of her car, pulled her out of the car and started misbehaving with her saying that '*Main Tumhara Diwana Hu, Tum Mujhse Door Kyo Bhagti*

Ho, Aaj Main Tumhe Pa Kar Rahunga'. Petitioner further stated that he slapped her by catching hold of her hair resulting an injury on her lip and blood started oozing out profusely. It is further alleged that when petitioner tried to escape, respondent No.2 pushed her breast and tried to snatch her chain. Even as per the petitioner, the incident was witnessed by Const.Shishpal (PW-3) who came to her rescue.

4. Version of Const.Shishpal was that on 27th August, 2009, he was posted at Beat of Cross-River Mall falling under the jurisdiction of PS Anand Vihar. On that day around 10:30 AM, a lady came out of a car at the gate of Cross-River Mall and at that time, a boy also came on a motorcycle. They started quarrelling and abusing. He immediately rushed to the spot, intervened and separated both of them and informed PS Anand Vihar and thereafter handed over both of them to ASI Veena. From the evidence of this independent eye witness, Const.Shishpal, the version of the petitioner that her car was first hit and thereafter she was pulled out of the car and she was misbehaved is belied. It is apparent that the petitioner voluntarily came out of the car and thereafter a quarrel took place between the petitioner and respondent No.2. The genesis of the version as stated by the petitioner having been not supported by the statement of Const.Shishpal, this Court finds that there is no perversity or illegality in the impugned judgments acquitting the respondent No.2. Hence no case for grant of leave to appeal is made out.

5. Petition and application are dismissed.

6. Trial Court Record be sent back.

MUKTA GUPTA, J.

APRIL 13, 2018/mamta