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

+ **CRL.L.P. 642/2018**

STATE

..... Petitioner

Through: Ms. Kusum Dhalla, APP with ASI
Baljit Singh, PS Aman Vihar

versus

VINOD

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER

05.10.2018

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Crl. M.A. No. 33649/2018

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

CRL.L.P. 642/2018

The State has preferred the present leave petition to seek leave to appeal against the judgment dated 18.08.2018 passed by the learned ASJ (NW)-01, Special Court, Rohini Courts in SC No.194/2014 arising out of FIR 921/2014 under section 376(2)(f)(j)/ 377/323/506 IPC read with section 6/8 of the POCSO Act registered at PS Aman Vihar. By the impugned judgment, the Trial Court has acquitted the respondent/ accused by holding that the prosecution has not been able to establish the commission of the offence beyond reasonable doubt. Benefit of doubt has been given to the accused.

The accused is the father of the prosecutrix, who was aged 5 years at the time of the alleged commission of the offence. Admittedly, there is a

matrimonial dispute between the parents of the prosecutrix. The Trial Court has noticed that the complaint itself was made belatedly even after the mother of the prosecutrix came to know of the offence. The accused is alleged to have inserted his finger in the vagina of the prosecutrix apart from exposing his own private part to the prosecutrix and allegedly he asked her to touch and lick it. There is no medical evidence brought on record to substantiate the same, since internal examination of the prosecutrix was not undertaken in view of, inter alia, the allegation made by the complainant/mother of the prosecutrix.

In the background of the matrimonial dispute between the accused and the mother of the prosecutrix, the possibility of false implication cannot be ruled out. The prosecution did not lead any corroborative evidence on record. The Trial Court has also taken into account several discrepancies in the evidence of the prosecution witnesses. As per the prosecution witnesses, the prosecutrix would be left at the house of her maternal grandmother from the school, and would be picked up by the complainant after she had finished her work in the evening and brought home. The Trial Court has doubted the case of the prosecution, since the possibility of the prosecutrix remaining in the company of the accused alone was doubted.

In these circumstances, we find no merit in this petition. The same is, accordingly, dismissed.

VIPIN SANGHI, J

C. HARI SHANKAR, J

OCTOBER 05, 2018 ^{sr}