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

+ W.P.(CRL) 265/2019

RAMA KUMARI

... Petitioner

Represented by: Mr.Atul Kumar Varma,
Advocate

versus

STATE

... Respondent

Represented by: Mr.Ashish Aggarwal, ASC for
the State

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

28.01.2019

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By this petition the petitioner seeks release of the vehicle from which allegedly the illicit liquor was recovered and FIR No.396/2018 under Section 33/58 of Delhi Excise Act was registered and also challenges order dated 6th December, 2018 passed by the learned Metropolitan Magistrate. Learned Additional Standing Counsel relying on the decision of the Hon'ble Supreme Court in *State Vs. Narender* dated 6th January, 2014 and the order of this Court in *Sohan Lal Vs. State (NCT of Delhi) & Anr.* dated 30th October, 2017, opposes the same and states that in view of the bar under the Delhi Excise Act, as the vehicle is liable for confiscation, the same cannot be released to the petitioner.

A perusal of Annexure-A, which is a certified copy of the impugned order, reveals that on the application for release of the vehicle the learned

Metropolitan Magistrate made an endorsement dated 5th December, 2018 whereby the application was listed, at request, on 6th December, 2018 at 2.00 P.M. The order dated 6th December, 2018 reads as under:-

*“Pr. None.
Application disposed of.”*

It is thus a totally non-speaking order which is set aside and the learned Metropolitan Magistrate is directed to decide the application afresh by giving reasons.

Petition is disposed of.

MUKTA GUPTA, J.

JANUARY 28, 2019
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