

\$~

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

+ CRL.L.P. 688/2018

%

Judgment reserved on: 4th April, 2019
Judgment pronounced on: 10th May, 2019

STATE (NCT OF DELHI)

..... Petitioner

Through: Mr.Tarang Srivastava, APP for State with
SI Prakash, PS Sadar Bazar.

versus

SONU

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

1. By this petition under Section 378(3) of the Code of Criminal Procedure, 1973 (hereinafter as '**Cr.P.C**'), the appellant/State seeks leave to appeal against the judgment dated 01.08.2018 passed by learned Additional Sessions Judge, Special Fast Track Court-2, Central District, Tis Hazari Courts, Delhi whereby the accused/respondent was acquitted of the charge under Sections 451/376 of the Indian Penal Code, 1860 (hereinafter as '**IPC**') in FIR No.1503/2015 registered at Police Station Burari.
2. Brief facts of the case, as noticed by the Learned Trial Court, are as under:-

"In this case criminal law was set into motion on the basis of statement of prosecutrix recorded by police on 11.12.2015 and FIR No.1503/2015 u/s 376 IPC

was registered. In her statement prosecutrix had narrated that on 11.12.2015 at about 5.00 a.m. while she was present in her premises and her husband had gone away for work then accused Sonu had entered in her room after breaking the door and committed sexual intercourse with her against her wish and ran away. After the incident while she was crying, the daughter-in-law of her landlord came down and enquired for reason of weeping but she did not tell anything regarding the incident being fearful of her owner. Thereafter, her jethani also came in her room to cook food then she narrated the entire incident to her and when in the evening her husband came home she narrated the entire incident of rape to him who took her to police station and at about 8:00 p.m. her statement was recorded by police”.

3. During the course of investigation, Inspector Mukesh Devi prepared Rukka and got the case registered, she even got the prosecutrix counselled. The I.O. sent the prosecutrix with SI Alma Minj to Aruna Asaf Ali Hospital where she was medically examined and the exhibits prepared by the doctors were preserved and seized by the Investigating Officer. On 14.12.2015, statement of prosecutrix U/s 164 Cr.P.C. was recorded by the learned Metropolitan Magistrate wherein she had reiterated the same facts and circumstances against the accused.
4. On the basis of material available on record, vide order dated 11.04.2016, charge was framed against the accused for the offences punishable U/s 451/376 IPC to which he pleaded not guilty and claimed trial. In order to bring home the guilt of the accused, the prosecution has examined fourteen witnesses in all.

5. Statement of the accused was recorded under Section 313 of Cr.P.C wherein he reiterated his innocence and denied all the incriminating evidence against him and claimed to be falsely implicated in this case. According to him, PW9 (Pramod), husband of the prosecutrix used to be his driver and he used to support the family of Pramod financially and when he stopped extending financial support, PW9 (Pramod) in connivance with the prosecutrix got the present case registered against him. Accused has examined one witness in his defence.
6. Learned counsel for the appellant/State contended that the impugned judgment dated 01.08.2018 is based on conjectures, surmises and the learned Trial Court has failed to appreciate the testimony of the prosecutrix in its right perspective ignoring the well-settled proposition of law that the sole testimony of the victim of sexual offence is sufficient to base conviction of the accused; that the Trial Court has erred by not appreciating the fact that the version of the prosecutrix also corroborates with the FSL report whereby the DNA profile generated from the clothes of the prosecutrix duly matched with the DNA profile from blood gauze of the accused.
7. Learned counsel for the State further contended that the learned Trial Court failed to consider the testimony of PW-2 (prosecutrix) in correct perspective and based the acquittal of the accused, on minor inconsistencies in the testimonies of PW-2 (prosecutrix); that the learned trial court ignored the settled proposition of law that conviction in rape case can be based on the sole testimony of the victim which does not require any corroboration; that the testimony

of PW-2 (the prosecutrix) is fully corroborated with the testimony of PW-9 (the husband) as well as MLC of the prosecution (Ex.PW-2/A); that the Trial Court had failed to consider that the prosecutrix had informed about the said incident to her husband and Jethani (sister-in-law) and that the version of the prosecutrix has been consistent throughout and corroborates with other material witnesses.

8. I have heard the learned counsel for the State and perused the material available on record.
9. It is a settled principle of law that conviction in a rape case can be based on the sole testimony of the victim of sexual assault without corroboration from any other evidence. The statement of the victim is more reliable than any other witness, where the testimony of victim of sexual assault instills confidence in Court, the same can be relied upon for conviction of the accused. It is also a well settled principle of law that corroboration as a condition for judicial reliance on the testimony of the victim is not a requirement of law but a guidance to prudence under the given circumstances.
10. In ***State of Rajasthan vs. Babu Meena reported at (2013) 2 SCALE 479***, the Apex Court held that:

“8. We do not have the slightest hesitation in accepting the broad submission of Mr. Jain that the conviction can be based on the sole testimony of the prosecutrix, if found to be worthy of credence and reliable and for that no corroboration is required. It has often been said that oral testimony can be classified into three categories, namely (i) wholly reliable, (ii) wholly unreliable and (iii) neither wholly reliable nor wholly unreliable. In case of wholly reliable testimony of a single witness, the

conviction can be founded without corroboration. This principle applies with greater vigour in case the nature of offence is such that it is committed in seclusion. In case prosecution is based on wholly unreliable testimony of a single witness, the court has no option than to acquit the accused.

9. In the background of the aforesaid legal position, when we consider the case in hand we are of the opinion that the statement of the prosecutrix is not at all reliable or in other words wholly unreliable. No other evidence has been led to support the allegation of rape. Hence, it shall be unsafe to base the conviction on her sole testimony. In her evidence she had stated that she was subjected to rape at 12.00 noon when her sister Jitendra, the wife of the accused had gone to purchase milk. However, during the course of investigation she alleged that she was subjected to rape at 06.30 A.M. When confronted with the aforesaid contradiction in the cross-examination, she could not explain the aforesaid discrepancy. Her statement that she shouted for help when she was subjected to rape also does not find support from the evidence of Ramchandra Salvi (PW-11), the owner of the house where the incident is alleged to have taken place. Dr. Smt. Sushila (PW-12), has also not supported the allegation of rape as also the Forensic Science Laboratory Report. In the face of what we have observed above, the evidence of the prosecutrix cannot be said to be wholly reliable.”

11. In **Krishan Kumar Malik vs. State of Haryana (2011) 7 SCC 130**, the Apex Court has held that:

“31. No doubt, it is true that to hold an accused guilty for commission of an offence of rape, the solitary evidence of prosecutrix is sufficient provided the same inspires confidence and appears to be absolutely trustworthy, unblemished and should be of sterling quality. But, in the case in hand, the evidence of the prosecutrix, showing several lacunae, have already been projected hereinabove, would go to show that her evidence does not fall in that category and cannot be relied upon to hold the Appellant guilty of the said offences. Indeed there are several significant variations in material facts in her Section 164 statement, Section 161 statement (Code of Criminal Procedure), FIR and deposition in Court.”

12. In ***Vijay v. State of Madhya Pradesh: (2010) 8 SCC 191***, the Apex Court has observed that:

“Thus, the law that emerges on the issue is to the effect that the statement of the prosecutrix, if found to be worthy of credence and reliable, requires no corroboration. The court may convict the accused on the sole testimony of the prosecutrix.”

13. It is vital to note that if the statement of the prosecutrix fails to inspire confidence or is not worthy of credence then the same should not be the basis for conviction. The same was reiterated in ***Sadashiv Ramrao Hadbe v. State of Maharashtra: (2006) 10 SCC 92***, wherein the Supreme Court held that:

9. It is true that in a rape case the Accused could be convicted on the sole testimony of the prosecutrix, if it is capable of inspiring confidence in the mind of the court. If the version given by the prosecutrix is

unsupported by any medical evidence or the whole surrounding circumstances are highly improbable and belie the case set up by the prosecutrix, the court shall not act on the solitary evidence of the prosecutrix. The courts shall be extremely careful in accepting the sole testimony of the prosecutrix when the entire case is improbable and unlikely to happen

14. As is also evident from the observations above, such reliance may be placed only if the testimony of the prosecutrix appears to be worthy of credence. In this regard, it is also relevant to note the observations of the Apex Court in the case of ***Raju v. State of Madhya Pradesh: (2008) 15 SCC 133*** which read thus:

10. The aforesaid judgments lay down the basic principle that ordinarily the evidence of a prosecutrix should not be suspected and should be believed, more so as her statement has to be evaluated on a par with that of an injured witness and if the evidence is reliable, no corroboration is necessary. Undoubtedly, the aforesaid observations must carry the greatest weight and we respectfully agree with them, but at the same time they cannot be universally and mechanically applied to the facts of every case of sexual assault which comes before the court. 11. It cannot be lost sight of that rape causes the greatest distress and humiliation to the victim but at the same time a false allegation of rape can cause equal distress, humiliation and damage to the Accused as well. The Accused must also be protected against the possibility of false implication, particularly where a large number of Accused are involved. It must,

further, be borne in mind that the broad principle is that an injured witness was present at the time when the incident happened and that ordinarily such a witness would not tell a lie as to the actual assailants, but there is no presumption or any basis for assuming that the statement of such a witness is always correct or without any embellishment or exaggeration

Testimony of the prosecutrix

15. Returning to the facts of the present case, the primary issue for consideration in the present leave petition is whether evidence adduced by the prosecution, particularly the testimony of PW-2 (prosecutrix) and PW-9 (the husband) is trustworthy, credible and worthy of reliance.

16. PW-2 (Prosecutrix) in her examination-in-chief deposed as under:

“On 11.12.2015 my husband had gone on his work about 05.00 am and I along with my daughter aged about 07 months was present in the house. I had bolted the door of the room from inside. After half an hour of leaving the house by my husband, accused came there, broke opened the door by hitting the same with his leg. The door was not properly bolted at that time. Thereafter, he forcibly committed rape on me after pinning me down on the bed. I was residing as a tenant in a room on the ground floor at the address given by me in my complaint. Accused was also residing there in a room as a tenant on the same floor opposite to my room. There was no other room on the ground floor. After committing rape on me, accused left the room with his “Champion” vehicle which he used to drive. After the incident when I was weeping,

the daughter in law of our landlady heard the same, came to me and asked me the reason why I was weeping but I did not tell anything to her thinking that I will tell the incident to my husband. After about 10 minutes my "Jethani" Smt.Asha came to my room to cook food as her Gas Cylinder had got empty. At that time I was still weeping. I told the entire incident to Smt.Asha. She was also residing in the same street on the opposite row. Thereafter, I also telephoned my husband and narrated the entire incident to him. After half an hour he also came up at the room and I told the incident to him. Thereafter, I along with my husband went to police station Burari and gave my statement.

Cross examination of PW2 reads as under:-

Accused was known to me prior to the incident. My husband was driving the vehicle of the accused and he was getting Rs.8000/- per month as salary.

It is also correct that my differences with my husband was sorted out with the intervention of the accused and his Bua.

It is correct that I alongwith accused and his family visited had gone to a place known as Chhota Haridwar in Delhi. I alongwith my husband, accused and his girlfriend had gone to a Dargah at Wazirabad, Delhi.

The door of my room is a single door. The latches of the door of my room were broken when accused forcibly entered my room. When accused entered my room, I asked him "kua hua", he sat beside me. There is one wooden window in my room. Normally it

is remained closed. My one month old daughter was asleep at the time of incident. There was a singly bed in my room. My child was in my lap at that time. It is correct that my wearing clothes were not torn. Again said my shirt was torn from the neck. Accused was wearing jeans and t-shirt at the time of incident. After about half an hour accused left my room. I did not raise alarm at that time (objected to by Ld.Addl. PP for State). I had called my husband from my mobile phone. My mobile phone number was 7503246431. Presently it is closed. My husband reached the house at about one hour or two hours. It is correct that I was wearing the same clothes when my Jethani came to my room.

I alongwith my husband reached police station at 10.00 am. We stayed at police station for an hour. I do not remember how many papers I had signed at police station. I cannot tell the time of my medical examination.”

17. PW-9 (husband) during his examination-in-chief, deposed as under:

“I left my rented house in between 04.00 am to 05.00 am for the said work. At about 07.30 pm I received a call from my wife/prosecutrix stating that accused Sonu, present in the court (correctly identified) had committed rape on her. Accused Sonu was known to me as I had also worked with him as a driver and left the job at about one and half months prior to the present incident. Accused came into my contact through the Bua of the accused, who had been residing in Mandoli. My in-laws house was also in Mandoli. The Bua of the accused had referred me to the accused

for the work of driving his car. After receiving the aforesaid call, I reached my house at about 08.30 pm-08.45 pm. My wife/prosecutrix narrated the entire incident to me which had happened after a little while of leaving my house. I immediately took my wife/prosecutrix to police station, where she lodged complaint already Ex.PW1/A.

Cross examination of PW-9 (the husband) reads as under:-

Prosecutrix had called me between 06:00-07:00 am I was in the Phool Mandi, Gazipur at that time. Prosecutrix had revealed me about the incident. Except prosecutrix and my Bhabhi no one else was present at my house when I reached there. It is correct that after discussion with the prosecutrix for about one hour, I along with her went to the police station.

“...It is correct that I had gone to visit Chhota Haridwar and Mazar at Wazirabad with the accused in the vehicle of the accused...”

18. From the perusal of the above statements it is evident that there are various contradictions and inconsistencies in their deposition which in furtherance creates a shadow of doubt upon the case of the prosecution. In cross examination, PW2 (prosecutrix) deposed that ‘The latches of the door of my room were broken when accused forcibly entered my room’ to the contrary PW11 (daughter-in-law of land lady) had deposed in her cross examination that ‘The door and the latches of the room of the prosecutrix were not broken as inspected by the police officials in my presence’. Another glaring defect which is eminent is that PW-9 (husband) in his examination-in-chief deposed that ‘At about 07.30 pm I received a call from my

wife/prosecutrix stating that accused Sonu had committed rape on her' to the contrary, PW-13 (Inspector Mukesh Devi) during her cross-examination deposed that 'Prosecutrix along with her husband came to police station at about 06:00 pm. It is highly improbable that when PW-9 (husband of the prosecutrix) has received the information only at 7.30 pm then has come he reached the police station along with the prosecutrix at 6.00 pm. The conduct of the prosecutrix is also unnatural as she neither raised any hue and cry at the time of alleged incident nor reported the matter immediately after the incident'. The time the police reached the spot of the incident is also at dispute.

Medical Evidence

19. At this stage, it is pertinent to view the medical evidence adduced by the prosecution. PW-5/Dr. Ruchita had examined the prosecutrix. The MLC (*Ex.PW-2/A*) is reproduced below:

*"No sign of fresh external injury seen at time of Medical Examination.
Opinion can be formed after examination of collected samples as female is sexually active and had intercourse with her husband in less than 48 hours before collection of samples"*

20. Learned counsel for the State has strongly placed reliance on the FSL result which reads as under:

CONCLUSION

1. The DNA profiling (STR analysis) performed on the exhibits provided is sufficient to conclude that DNA Profile generated from the source of exhibits '2a' (underwear of victim) & '3a' (legging of victim) is

similar with the DNA Profile from the source of exhibit "6' (blood gauze of accused Sonu).

2. The DNA profiling (STR analysis) performed on the exhibits provided is sufficient to conclude that DNA Profile generated from the source of exhibits '2a' (underwear of victim) & '3a' (legging of victim) is ***similar*** with the DNA Profile from the source of exhibit "6' (blood gauze of accused Sonu)

21. The Apex Court in the case of ***Yogesh Singh vs. Mahabeer Singh and Ors.*** reported at AIR 2016 SC5160, has held that the medical evidence is only corroborative in nature and not conclusive. The germane portion is extracted below:

“In any event, it has been consistently held by this Court that the evidentiary value of medical evidence is only corroborative and not conclusive and, hence, in case of a conflict between oral evidence and medical evidence, the former is to be preferred unless the medical evidence completely Rules out the oral evidence. [See Solanki Chimanbhai Ukabhai v. State of Gujarat (1983) 2 SCC 174; Mani Ram v. State of Rajasthan 1993 Supp (3) SCC 18; State of U.P. v. Krishna Gopal and Anr., State of Haryana v. Bhagirath MANU/SC/0362/1999 : (1999) 5 SCC 96; Dhirajbhai Gorakhbhai Nayak v. State of Gujarat (2003) 5 SCC 223; Thaman Kumar v. State of U.T. of Chandigarh (2003) 6 SCC 380; Krishnan v. State (2003) 7 SCC 56; Khambam Raja Reddy and Anr. v. Public Prosecutor, High Court of A.P., (2006) 11 SCC 239; State of U.P. v. Dinesh MANU/SC/0282/2009 : (2009) 11 SCC 566; State of U.P. v. Hari Chand (2009) 13 SCC 542; Abdul Sayeed v. State of M.P. MANU/SC/0702/2010 : (2010) 10 SCC 259 and Bhajan

Singh @ Harbhajan Singh and Ors. v. State (2011) 7 SCC 421].”

22. In a recent case, the Apex Court in ***Balvir Singh and Ors. vs. State of Madhya Pradesh*** reported at 2019 (4) SCALE 631, has specified that oral evidence always has supremacy over medical evidence as the latter can only be considered as opinionative in nature. Relevant portion is extracted below:

“26. It is well settled that the oral evidence has to get primacy since medical evidence is basically opinionative. In Ramanand Yadav v. Prabhu Nath Jha and Ors.: (2003) 12 SCC 606, the Supreme Court held as under:

17. So far as the alleged variance between medical evidence and ocular evidence is concerned, it is trite law that oral evidence has to get primacy and medical evidence is basically opinionative. It is only when the medical evidence specifically Rules out the injury as is claimed to have been inflicted as per the oral testimony, then only in a given case the court has to draw adverse inference. The same principle was reiterated in State of U.P. v. Krishna Gopal and Anr.: (1988) 4 SCC 302, where the Supreme Court held "that eyewitnesses' account would require a careful independent assessment and evaluation for their credibility which should not be adversely prejudged making any other evidence, including medical evidence, as the sole touchstone for the test of such credibility."

23. Returning to the facts of the present case the testimony of the prosecutrix is inconsistent and in contradiction with the testimony of

her husband and other prosecution witnesses. The MLC of the prosecutrix also does not support the case of the prosecution. Though in FSL report the semen detected from the clothes of the prosecutrix matched with DNA profile of the accused but in the present case conviction cannot be based only on the positive report of the FSL as the statement of prosecutrix and MLC of the prosecutrix does not support the case of the prosecution for punishment under Section 376 IPC. The conduct of the prosecutrix also appears to be unnatural hence the consensual relation among the accused and prosecutrix cannot be ruled out. Accordingly, in the present case we cannot place reliance on the report obtained from FSL.

False implication

24. The accused has produced one witness in his support, DW1/Smt. Munni Kumari has deposed that the prosecutrix and the accused were known to each other and that the accused used to pay the rent on behalf of the prosecutrix, regarding which they used to have regular quarrels. Relevant portion of her deposition is reproduced below:

“...Accused used to pay rent of complainant for sometimes and sometimes husband of the complainant used to pay the rent. They used to quarrel on the issue of adjustment of rent amount.

Prosecutrix used to threaten the accused that she would implicate him in a case of rape if he would demand his money from her or her husband...”

25. Attention of this court has been directed to the Cross examination of PW11/Smt Karuna who is the daughter of the landlady. The same is stated below:

“...It is further correct that police officials came to our house at about 06:00pm-07:00pm on 11.12.2015. it is further correct that prior to that no noise or hue and cry was made by the prosecutrix or her husband or any other relative of the prosecutrix. The door and the latches of the room of the prosecutrix were not broken as inspected by the police officials in my presence...”

26. As per the case of the prosecution, the accused had forcibly entered into the room of the prosecutrix and committed rape upon her. However, from the perusal of the testimony of PW11 it becomes established that the latch of the door to the room of the prosecutrix was intact when the police had inspected the place. Even if the latch was lightly bolted, there should have been some amount of damage to the lock when the respondent forcibly entered into the room.
27. Another aspect which seems implausible is the fact that the prosecutrix failed to raise any alarm to attract the attention of other residents of the building or did not offer any resistance while having been sexually assaulted by the respondent. Moreover, the prosecutrix had, foremost, informed her jethani (Smt Asha) about the incident, who could have been a vital witness to the case of the prosecution, yet she was not examined by the prosecution.

Conclusion

28. From the above discussion, I am of the considered view that evidence adduced by the prosecutrix has no ring of truth and does not find to be of sterling character and is not sufficient to base the conviction of the respondent. As far as medical evidence is concerned, it is settled law that the same is corroborative in nature. Since, the ocular testimony of the prosecutrix is inconsistent, it would be unsafe to give weightage to the medical evidence.
29. On Scrutinizing the material available on record, as demonstrated above, the same does not appear to be a case of sexual intercourse against the will of the prosecutrix rather it appears that the prosecutrix was a consenting party. The prosecution fails to prove its case beyond any reasonable doubt as this Court finds that the testimony of prosecutrix fails to inspire confidence and the same cannot be relied for the conviction of the respondent.
30. The law with regard to grant of leave is well settled by a catena of judgments. Leave to appeal can be granted only where it is shown that the conclusions arrived at by the Trial Court are perverse or there is misapplication of law or any legal principle. The High Court cannot entertain a petition merely because another view is possible or that another view is more conceivable.
31. In ***Upendra Pradhan vs. State of Orissa*** reported at **2015 5 SCALE 634**, the Apex Court has observed that:

“10. Taking the First question for consideration, we are of the view that in case there are two views which can be culled out from the perusal of evidence and application

of law, the view which favours the accused should be taken. It has been recognized as a human right by this Court. In Narendra Singh and Anr. v. State of M.P. MANU/SC/0341/2004 : (2004) 10 SCC 699, this Court has recognized presumption of innocence as a human right and has gone on to say that:

30. It is now well settled that benefit of doubt belonged to the accused. It is further trite that suspicion, however grave may be, cannot take place of a proof. It is equally well settled that there is a long distance between 'may be' and 'must be'.

31. It is also well known that even in a case where a plea of alibi is raised, the burden of proof remains on the prosecution. Presumption of innocence is a human right. Such presumption gets stronger when a judgment of acquittal is passed. This Court in a number of decisions has set out the legal principle for reversing the judgment of acquittal by a Higher Court (see Dhanna v. State of M.P., Mahabir Singh v. State of Haryana and Shailendra Pratap v. State of U.P.) which had not been adhered to by the High Court.

xxx

33. We, thus, having regard to the post-mortem report, are of the opinion that the cause of death of Bimla Bai although is shrouded in mystery but benefit thereof must go to the Appellants as in the event of there being two possible views, the one supporting the accused should be upheld.

*11. The decision taken by this Court in the aforementioned case, has been further reiterated in **State***

of Rajasthan v. Raja Ram (2003) 8 SCC 180, wherein this Court observed thus:

Generally the order of acquittal shall not be interfered with because the presumption of innocence of the accused is further strengthened by acquittal. The golden thread which runs through the web of administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. The paramount consideration of the Court is to ensure that miscarriage of justice is prevented. A miscarriage of justice which may arise from acquittal of the guilty is no less than from the conviction of an innocent. In a case where admissible evidence is ignored, a duty is cast upon the appellate court to reappreciate the evidence in a case where the accused has been acquitted, or the purpose of ascertaining as to whether any of the accused committed any offence or not. (see Bhagwan Singh v. State of M.P.) The principle to be followed by the appellate court considering the appeal against the judgment of acquittal is to interfere only when there are compelling and substantial reasons for doing so. If the impugned judgment is clearly unreasonable, it is a compelling reason for interference.”

32. In **Govindaraju @ Govinda vs State by Sriramapuram P.S. and Anr.** reported at **AIR 2012 SC 1292** the Apex Court discussed the law while dealing with appeals against acquittal in the following words:

13.....The courts have held that if two views are possible on the evidence adduced in the case, then the

one favorable to the accused, may be adopted by the court. However, this principle must be applied keeping in view the facts and circumstances of a case and the thumb rule is that whether the prosecution has proved its case beyond reasonable doubt. If the prosecution has succeeded in discharging its onus, and the error in appreciation of evidence is apparent on the face of the record then the court can interfere in the judgment of acquittal to ensure that the ends of justice are met. This is the linchpin around which the administration of criminal justice revolves.

14. It is a settled principle of criminal jurisprudence that the burden of proof lies on the prosecution and it has to prove a charge beyond reasonable doubt. The presumption of innocence and the right to fair trial are twin safeguards available to the accused under our criminal justice system but once the prosecution has proved its case and the evidence led by the prosecution, in conjunction with the chain of events as are stated to have occurred, if, points irresistibly to the conclusion that the accused is guilty then the court can interfere even with the judgment of acquittal. The judgment of acquittal might be based upon misappreciation of evidence or apparent violation of settled canons of criminal jurisprudence.

33. With the aforementioned reasons, I am of the opinion that the present leave petition holds no merit and I see no compelling and substantial reason to interfere with the order passed by the learned Trial Court in the present case and therefore, upon overall analysis, I am of the view that the present leave petition preferred by the State being meritless deserves to be dismissed.

34. Accordingly, the present leave petition being devoid of merit is dismissed.

SANGITA DHINGRA SEHGAL, J.

MAY 10, 2019
gr

