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

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Judgment delivered on: 15.03.2019

+ CRL.REV.P. 913/2017

KAJAL KHARBANDA

..... Petitioner

versus

STATE & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. M.N. Jha, Advocate.

For the Respondent : Ms. Kusum Dhalla, APP for the State.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

**CRL.REV.P. 913/2017 & CrI.M.A.3760/2019 (for disposal),
CrI.M.A.5736/2019 (for waiver of cost)**

1. Petitioner impugns judgment dated 09.11.2017 of the Appellate Court, whereby, the appeal of the petitioner, impugning judgment of conviction dated 18.11.2015 and order on sentence dated 18.11.2015 was dismissed.

2. Petitioner was directed to undergo SI for one year and to pay fine of Rs.21,70,000/- and in default to further undergo six months SI. Parties were referred to mediation in the civil suit for recovery filed by the respondent/complainant.

3. Through the process of mediation, Settlement Agreement has been arrived at as recorded in Settlement Agreement dated 02.08.2018.

4. On 20.02.2019, in terms of the settlement, respondent/complainant had acknowledged that she had already received Rs.21,70,000/- and had agreed to receive a balance amount of Rs.2 lakhs in full and final settlement of all her claims. A sum of Rs.1 lakh had already been paid as recorded in the Settlement Agreement. Balance amount of Rs.1 lakh was paid on 20.02.2019 vide DD No.603064 dated 20.11.2018 (revalidated on 19.02.2019) drawn on Karnataka Bank Ltd.

5. On 20.02.2019, respondent/complainant was present in Court and had submitted that she had received the entire amount and had no objection to the compounding of the subject offence.

6. Petitioner has filed the subject application seeking waiver of the cost liable to be imposed in terms of judgment of the Supreme Court in *Damodar S. Prabhu vs. Sayyed Babulal H*: (2010) 5 SCC 663.

7. Learned counsel for the petitioner submits that petitioner during the pendency of the present case has lost her husband and has a dependant son and mother and has sold all her valuables, moveable and immovable assets for the treatment of her husband, who was suffering from brain haemorrhage and she is living in a rented

accommodation and as such, seeks waiver of costs as is liable to be imposed in terms of judgment of the Supreme Court in *Damodar S. Prabhu vs. Sayyed Babulal H:* (2010) 5 SCC 663.

8. It was further contended that the subject transaction had actually been entered into by the husband of the petitioner in her name and now the father, husband and brother of the petitioner have already expired and her son has just completed his education and is unemployed searching for a job and as such, petitioner does not have any means to pay cost. It is further submitted that the petitioner with great difficulty is taking care of herself and dependant mother and son.

9. Keeping in view of the fact that the petitioner has lost the other earning family members and has sold off her moveable and immovable assets for treatment of her husband and for the purposes of settlement and making payment to the respondent, I am satisfied that the petitioner has made out a case for waiver of the cost liable to be imposed.

10. In view of the above, the cost liable to be imposed, in terms of the judgment of the Supreme Court in *Damodar S. Prabhu vs. Sayyed Babulal H:* (2010) 5 SCC 663, in the peculiar facts of the case, as noticed above, are waived. Since the petitioner has settled with the complainant and paid the settlement amount and the complainant has also stated that she has no objection to the compounding of the subject

offence, the subject offence is compounded and the petitioner is acquitted of the same.

11. Petition and all the applications are disposed of in the above terms.

12. Order *Dasti* under signatures of the Court Master.

MARCH 15, 2019
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SANJEEV SACHDEVA, J

