

\$~22

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

+ **CRL.L.P. 728/2017**

STATE (NCT OF DELHI)

..... Petitioner

Represented by: Ms. Meenakshi Chauhan, APP with
SI Nanu Ram, PS Dwarka South.

versus

HARI RAM

..... Respondent

Represented by: Mr. Hemant Gulati, Adv.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **06.02.2019**

CrI.M.A. 20871/2017 (delay)

For the reasons stated in the application delay of 69 days in filing the leave to appeal petition is condoned.

Application is disposed of.

CRL.L.P. 728/2017

The learned Metropolitan Magistrate convicted the respondent for the offences punishable under Section 279/304A IPC, however the learned ASJ on appeal filed by the respondent acquitted him. The conviction of the learned Trial Court was based on the testimony of an eye-witness Abhishek whose shop was situated opposite the place of incident as he reached the spot immediately on hearing the accident and found the scooter lying in an accidental condition. Besides Abhishek there is another eye-witness namely

CRL.L.P. 728/2017

page 1 of 2

Jai Singh PW-6. The learned ASJ discarded the testimony of the investigating officer on the ground that though he stated that there are blood signs on the rear tyre, however there is no FSL report nor the same were visible in the photographs. Though learned ASJ discarded the testimony of PW-6 the eye-witness, however did not give any reasoning for discarding the same and held that there is no other evidence and respondent is entitled to acquittal.

Considering the facts noted above, this Court deems it fit to grant leave to appeal.

Petition is disposed of.

CRL.A. _____/2019 (Registry to number the appeal)

Admit.

Pending hearing of the appeal the respondent will furnish a personal bond in the sum of ₹25,000/- with one surety bond of the like amount to the satisfaction of the Joint Registrar (Appellate) of this Court within four weeks, further subject to the condition that in case of change of residential address the same will be intimated to this Court by way of an affidavit.

MUKTA GUPTA, J.

FEBRUARY 06, 2019

‘ga’