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

+ **CRL.L.P. 4/2020**

**STATE**

..... Petitioner

Through: Ms Kusum Dhalla, APP for State with  
SI Pankaj Saroha, PS Paschim Vihar  
East.

versus

**AJAY GOEL**

..... Respondent

Through

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

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**07.01.2020**

**CRL.M.A. 58/2020**

1. Allowed, subject to all just exceptions.

**CRL.L.P. 4/2020 & CRL.M.A. 57/2020 & CRL.M.A. 59/2020**

2. The State has filed the present petition seeking leave to impugn the judgment dated 10.07.2019 passed by the MM-10 (West), Tis Hazari Courts, Delhi acquitting the respondent of committing an offence under Sections 279/337/304-A of the IPC.

3. The learned Trial Court considered it apposite to acquit the respondent, as none of the material witnesses were traceable.

4. The FIR in question related to an incident that allegedly occurred on 03.11.2005 at about 11:15 PM. It was alleged that the accused was driving a car bearing registration no. DL 4 CN6097 in a rash and negligent manner, which had led to an accident where his vehicle had collided against another

vehicle (Maruti Zen car bearing registration no. DL 4CAA 1530). The same had resulted the occupants of that vehicle suffering injuries. Subsequently, one child (Baby Shivangi) who was in the car bearing registration no. DL 4CAA 1530 at the material time, had succumbed to her injuries. Consequently, an offence under Section 304-A of the IPC was added.

5. Since the material witnesses could not be traced, the Trial Court closed the proceedings as it concluded that there was no possibility of convicting the respondent in absence of the material witnesses. The Court reasoned that in the facts of the case, the testimony of the official witnesses could not result in conviction of the respondent.

6. Ms Dhalla, learned APP also points out that it would not be possible to even prove the FIR since the complainant was not traceable and therefore, could not be cross-examined.

7. It is not the appellant's case that it could secure conviction of the respondent even in absence of the material witnesses. Thus, this Court finds no infirmity with the decision of the learned Metropolitan Magistrate.

8. In view of the above, this Court finds no reason to interfere with the impugned judgment. The present petition seeking leave to appeal against the impugned judgment is consequently rejected.

**VIBHU BAKHRU, J**

**JANUARY 07, 2020**  
**MK**