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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 02.08.2021

CRL.L.P. 173/2020

STATE

..... Petitioner

versus

RAHUL KUMAR

..... Respondent

Advocates who appeared in this case:

For the Petitioner	: Mr. Ashish Dutta, APP for the State along with S.I. Kuldeep Singh, P.S.: Khyala, Delhi along with victim.
For the Respondent	: Mr. Rahul Kumar, respondent in person along with two kids.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

JUDGMENT

SIDDHARTH MRIDUL, J. (OPEN COURT – BY VIDEO CONFERENCING)

1. The present leave to appeal under Section 378 of the Code of the Criminal Procedure, 1973 has been instituted on behalf of the State assailing judgment and order dated 09.12.2019 passed by the learned Trial Court acquitting the accused, namely Mr. Rahul Kumar of charges

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Signing Date: 03.08.2021
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under sections 363/366/376 of the Indian Penal Code, 1860 and under Section 6 POCSO Act, arising from FIR No. 426/2013 registered at P.S.: Khyala, Delhi.

2. It is the admitted position that, in terms of the ossification report exhibited before the learned Trial Court, the alleged victim was an adult on the date of commission of the offence; and was in fact already married to the accused.

3. We are informed at the Bar today that the alleged victim and Mr. Rahul Kumar, the accused before the learned Trial Court, are since living together as husband and wife; and in fact they have two sons, aged about 07 years and 04 years.

4. The above circumstance is clearly indicative of the fact that the alleged victim and the accused, who were both adults at the time of the alleged commission of offence, are married to each other of their own free will and volition; and have in fact started a family.

5. Even otherwise, a perusal of impugned judgment and order dated 09.12.2019 leaves no manner of doubt that there is no ground made-out to grant leave to appeal therefrom to the State, in the present proceedings.

6. Impugned judgment and order dated 09.12.2019 is accordingly upheld; and the petition seeking leave to appeal filed on behalf of the State is hereby dismissed, as being devoid of merit.

7. The criminal leave petition is disposed of accordingly.

**SIDDHARTH MRIDUL
(JUDGE)**

**ANUP JAIRAM BHAMBHANI
(JUDGE)**

AUGUST 02, 2021/rs

[*Click here to check corrigendum, if any*](#)