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

+ **CRL.L.P. 316/2023**

THE STATE OF GNCT OF DELHI

.....Petitioner

Through: Mr. Aman Usman, APP with W/SI K
M Banti PA Vasant Vihar.

versus

AJNESH KUMAR SINGH ALIAS KALE

.....Respondent

Through: Mr. Prashant Chandra, (Amicus) with
Mr. Ashutosh Kumar Pandey, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

% **18.10.2024**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the State under Section 378(3) of Cr.P.C seeking leave to challenge the impugned judgment dated 24th December, 2019 passed by the Id. Trial Court in FIR No.951/14 registered at PS. Vasant Vihar, Delhi under Section 376 (2) of IPC read with Section 6 of the The Protection of Children from Sexual Offences Act, 2012 ('POCSO Act'). Vide the impugned order the Respondent has been acquitted by the Id. Trial Court.
3. Charges were framed against the Respondent under Section 376(2) read with Section 6 of the POCSO Act. Vide the impugned judgement, primarily, the Id. Trial Court has come to the conclusion that the accused was addressed by the Survivor as *kala mama* in the statement recorded under Section 164 Cr.PC and *bhaiya* during the cross-examination and the same is contradictory.

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Secondly, the Id. Trial Court came to the finding that the MLC of the victim does not support the case of the prosecution.

4. The Court has perused the FSL report as also the MLC. Clearly, both the documents show that there was presence of blood on the clothes of the Prosecutrix. Considering the fact that the victim is of 5 years of age, the manner in which she addressed the Respondent, shall not be material to acquit and this matter deserves consideration.

5. Accordingly, leave is granted. The present criminal leave petition is allowed and disposed of.

CRL.A. _____/2024 (to be numbered)

6. The same may be registered as a criminal appeal and the Registry is directed to number it accordingly.

7. Mr. Prashant Chandra, Id. counsel accepts notice on behalf of the Respondent.

8. In the meantime, Respondent shall appear before the Joint Registrar and furnish a personal bond in the sum of Rs.10,000/- with one surety in the like amount. Let the Counsels for the parties obtain the electronic copy of the TCR and the appeal paper book and file a written note of arguments by the next date of hearing.

9. The Registry is directed to requisition the TCR and prepare the appeal paperbook with proper indexing, pagination and bookmarks expeditiously and provide digitized copies thereof to learned Counsel appearing on behalf of the parties, upon request. Let the TCR be tagged along with this appeal by the next date of hearing.



10. List before the Joint Registrar on 11th November, 2024.
11. List before the Court on 21st January, 2025.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

OCTOBER 18, 2024/dk/am/pr