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

+ CRL.L.P. 79/2021, CRL.M.A. 13156/2021

STATE

.....Petitioner

Through: Mr. Shoaib Haider, Ld. APP for State.
versus

ANIL KUMAR

.....Respondent

Through: Respondent in person.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

24.04.2025

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CRL.L.P. 79/2021

1. A Criminal Appeal under Section 378(1) of Cr.P.C has been filed on behalf of the Petitioner for Grant of Leave challenging the Judgment dated 04.02.2020 passed by learned M.M, Saket Courts, New Delhi, thereby acquitting the Respondent under Section 279/338 IPC in case FIR No.245/2014, P.S. Jaitpur.
2. Mr. Tushar Rehmetra, Advocate present in the Court is appointed as Amicus Curiae to represent the Respondent.
3. It is submitted that the learned Trial Court has failed to appreciate that there is no contradiction in the testimony of PW5 and the opinion mentioned in the MLC and other documents and also that the I.O has deposed that he has arrested the accused who was driving the vehicle and collected the MLC and there is no contradiction in the testimony of PW4.
4. In view of the reasons stated above, the Leave to Appeal is allowed.



CRL.APP.No. _____/2025 (To be numbered by the Registry)

5. A Criminal Leave to Appeal under Section 378(1) Cr.P.C has been filed on behalf of the Appellant challenging the Judgment dated 04.02.2020, whereby the Respondent has been acquitted in case FIR No.245/2014, under Section 279/338 IPC registered at Police Station Jaitpur.

6. The case of the Prosecution in brief is that on 19.04.2014 at about 8 A.M near SAI Polyclinic, Main Road, the Respondent Anil Kumar was driving his car bearing No.DL10CB 5909 in a rash and negligent manner and hit into the Complainant who was standing on the road side and thereby caused grievous injury. FIR No.245/2014 under Section 279/338 IPC, P.S Jaitpur was registered. The Chargesheet was filed in the Court.

7. After recording the evidence of the Prosecution witnesses and the Statement of the Respondent under Section 313 Cr.P.C, learned M.M observed that the Clinic of the Respondent was situated just one or two houses away from the spot and thus, the testimony of the witnesses that the vehicle was being driven at a speed of 50 KMPH seemed improbable. The Respondent who had just reached his Clinic which was just a shop or two away, would have slowed down the vehicle as he reached the destination and could not have been driving the vehicle at a speed of 50 KMPH. Furthermore, the injured had stated that her face was towards the side from where the Offending Vehicle was coming in which situation any person seeing the vehicle coming towards him would have exercised prudence to protect herself. It was thus, concluded that no rashness and negligence was proved on behalf of the Respondent and he was acquitted under Section 279/338 IPC.



8. The learned APP for State has challenged this Judgment of Acquittal on the ground that the testimony of PW1 the Complainant proved that the vehicle was being driven in a rash and negligent manner and the learned M.M fell in error in ignoring the consistent testimony of the Complainant as well as the medical record in giving the benefit to the Respondent.

9. **Submission heard and record perused.**

10. The learned M.M has rightly appreciated that from the testimony of PW1, no rashness or negligence on his part would have been inferred especially considering that the Complainant was standing on the extreme road side and the Respondent had reached his Clinic which was only one or two houses away. There was nothing to reflect that the vehicle was being driven rashly and negligently and he has been rightly acquitted.

11. At this stage the Complainant has appeared.

12. It is submitted that pursuant to the mutual Settlement, Rs.15,000/- has been paid by the Respondent to the injured/Complainant.

13. There is no merit in the Appeal which is hereby dismissed and is accordingly disposed of along with the pending Application(s).

NEENA BANSAL KRISHNA, J

APRIL 24, 2025/va