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

+ **CRL.L.P. 331/2022 & CRL.M.A. 13242/2022**

STATE NCT OF DELHIPetitioner
Through: Ms. Priyanka Dalal, APP
for the State with SI Rahul
Rathi, PS Sangam Vihar.

versus

VIKRAMRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **18.09.2025**

1. The present petition is filed under Section 378 of the Code of Criminal Procedure, 1973 ('CrPC') seeking grant of leave to challenge the judgment dated 26.08.2019 (hereafter '**impugned judgment**') passed by the learned Metropolitan Magistrate ('MM'), South District, Saket Courts, New Delhi in Criminal Case No. 2036156/2016 arising out of FIR No. 561/2013, whereby the learned MM acquitted the accused/respondent for the offence under Section 325 of the Indian Penal Code, 1860 ('IPC').

2. The brief facts are that on 22.12.2013, a DD entry was received by the police regarding a quarrel. The police after reaching the designated spot learned that the injured had already been taken to AIIMS hospital.

3. After reaching AIIMS hospital, the police collected the MLC of the complainant and thereafter recorded his statement



wherein, the complainant alleged that on 22.12.2013 at around 9:30 a.m. while he was standing outside his house, he saw that the accused/respondent had parked his car outside the house of the complainant.

4. It is alleged that, thereafter, the complainant asked the nephew of the accused/respondent to remove the car, however, the nephew of the accused/respondent allegedly started to abuse and man handle the complainant.

5. It is alleged that later on the accused/respondent also came to the spot of the alleged incident and took out a *danda* from his car. It is alleged that the accused/respondent thereafter gave blows on the leg of the complainant which resulted in a fracture in the complainant's right knee.

6. Pursuant to the statement made by the complainant, the police registered FIR No. 561/2013 under Sections 325/34 of the IPC.

7. The police thereafter arrested the accused/respondent and after completion of investigation, chargesheet was filed under Sections 323/325/34 of the IPC.

8. The learned MM after hearing the arguments on charge, framed charges for the offence under Section 325 of the IPC against the accused/respondent to which he pleaded not guilty and claimed trial.

9. The accused/respondent in his statement under Section 313 of the CrPC denied all the evidence that was put against him and stated that he has been falsely implicated in the present case. He stated that the complainant is an alcoholic and used to file false and frivolous cases against his neighbours in order to extort



money from them. He stated that the lane in which the complainant resided is not so wide that a car can be parked there.

10. The learned MM, noting the fact that the prosecution failed to prove the case beyond reasonable doubt against the accused/respondent, acquitted him by the impugned judgment.

11. The learned Additional Public Prosecutor for the State submits that the learned MM failed to appreciate the fact that the complainant had supported the case of the prosecution at every stage and remained consistent during the course of trial.

12. She submits that the learned MM failed to appreciate the fact that the complainant had suffered grievous injuries due to the alleged incident which resulted in fracture of his right knee.

13. She further submits that specific allegations have been made by the complainant against the accused/respondent and the learned MM ought to have convicted the accused/respondent for the alleged offence.

14. I have heard the learned Additional Public Prosecutor for the State and perused the record.

Analysis

15. It is trite law that this Court must exercise caution and should only interfere in an appeal against acquittal where there are substantial and compelling reasons to do so. At the stage of grant of leave to appeal, the High Court has to see whether a prima facie case is made out in favour of the appellant or if such arguable points have been raised which would merit interference. The Hon'ble Apex Court in the case of ***Maharashtra v. Sujay Mangesh Poyarekar: (2008) 9 SCC 475*** held as under:

“19. Now, Section 378 of the Code provides for filing of



appeal by the State in case of acquittal. Sub-section (3) declares that no appeal “shall be entertained except with the leave of the High Court”. It is, therefore, necessary for the State where it is aggrieved by an order of acquittal recorded by a Court of Session to file an application for leave to appeal as required by sub-section (3) of Section 378 of the Code. It is also true that an appeal can be registered and heard on merits by the High Court only after the High Court grants leave by allowing the application filed under sub- section (3) of Section 378 of the Code.

20. In our opinion, however, in deciding the question whether requisite leave should or should not be granted, the High Court must apply its mind, consider whether a prima facie case has been made out or arguable points have been raised and not whether the order of acquittal would or would not be set aside.

21. It cannot be laid down as an abstract proposition of law of universal application that each and every petition seeking leave to prefer an appeal against an order of acquittal recorded by a trial court must be allowed by the appellate court and every appeal must be admitted and decided on merits. But it also cannot be overlooked that at that stage, the court would not enter into minute details of the prosecution evidence and refuse leave observing that the judgment of acquittal recorded by the trial court could not be said to be “perverse” and, hence, no leave should be granted.”

(emphasis supplied)

16. The learned MM vide the impugned judgment acquitted the accused/respondent on the ground that the prosecution had failed to prove the case against him beyond reasonable doubt.

17. PW-1, complainant in his examination-in-chief deposed on the lines of his statement recorded at the time of registration of FIR. However, during cross-examination the complainant was unable to remember the registration number or any other detail regarding the vehicle parked outside his house.

18. Further PW-5, Investigating Officer Inderjeet Singh during his examination-in-chief denied the presence of any vehicle at the spot of the alleged incident.



19. The aforesaid fact creates a serious doubt on the case of prosecution as the alleged incident started due to the parking of the said vehicle outside the house of the complainant, however, neither its existence nor its identity could be established by any of the prosecution witnesses.

20. The complainant during cross-examination had stated that during the alleged incident neighbours had gathered around. He further stated that parents of the accused/respondent were also present at the spot of the alleged incident.

21. PW-2, Constable Rahul Kumar as well as PW-5 affirmed the presence of public persons at the spot of the alleged incident, however, the police during the course of investigation failed to record the statement of any of the public witnesses that were present at the spot of the alleged incident. The same also casts a serious doubt on the case as alleged by the prosecution.

22. It is pertinent to note that, in the present case, even the medical documents presented during the course of trial do not support the case of the prosecution. The MLC of the complainant records that the only injury suffered by the complainant was a minor abrasion on the lips of the complainant. PW-4, Dr. Sushant proved the MLC of the complainant and during his testimony that such an injury is simple in nature.

23. During the course of trial the accused/respondent had chosen to lead defence evidence. DW-2, accused/respondent had deposed on the lines of his statement under Section 313 of the CrPC. He further stated that on the day of the alleged incident he was not present in the city and was in Bawal, Haryana as his father-in-law had passed away.



24. The aforesaid fact has been corroborated by the statement of DW-1, Mr. Narender who is an independent witness. He stated that on the day of the alleged incident the accused/respondent was not present at the spot of the alleged incident as he had seen the entire incident from his balcony.

25. DW-1 further stated the complainant was a habitual drinker and had a habit of lodging false and frivolous cases against his neighbours in order to extort money out of them.

26. It is relevant to note that the aforesaid fact was also asserted by the accused/respondent both in his testimony as well as his statement under Section 313 of the CrPC. The prosecution during the course of trial failed to lead any evidence in order to rebut the testimonies of the defence witnesses.

27. In view of the aforesaid discussion, this Court is of the opinion that the learned MM had rightly acquitted the accused/respondent.

28. There is no infirmity with the impugned judgment to warrant any interference and the State has not been able to establish a *prima facie* case in its favour and no credible ground has been raised to accede to the State's request to grant leave to appeal in the present case.

29. The leave petition is dismissed in the aforesaid terms. Pending application(s), if any also, stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 18, 2025

‘KDK’