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

+ **CRL.L.P. 357/2022 & CRL.M.A. 14296/2022**

STATE OF NCT OF DELHIPetitioner

Through: Ms. Richa Dhawan, APP for
the State
ASI Vikram Singh, PS-
Karawal Nagar

versus

PRASHANT & ORS.Respondents

Through: Ms. Shruti, Adv.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **26.08.2025**

1. The present petition is filed seeking leave to appeal against judgment dated 21.12.2020 (hereafter '**impugned judgment**'), passed by the learned Trial Court in SC No. 44903/2015 arising out of FIR No. 97/2012 ('**FIR**'), registered at Police Station Karawal Nagar.

2. By the impugned judgment, the learned Trial Court acquitted the accused persons/ respondents of the offences under Sections 308/34 of the Indian Penal Code, 1860 ('**IPC**') and Sections 341/34 of the IPC.

3. The brief facts of the case are as follows:

3.1. On 06.04.2012, information was received by the police control room about a quarrel and stone pelting. It is alleged that around 12:15 PM, when the complainant was returning from shopping with his wife, his neighbours, including Respondent No.1, surrounded them and gave them beatings by kicks and punches. Allegedly, in the meantime, Respondent Nos. 2 to 5 reached the spot with *lathis* and *dandas* in their hands. It is alleged that Respondent Nos. 1 and 2 gave *lathi* blow on the head on the



complainant and the other accused persons gave beatings to the wife of the complainant with *lathis* and *dandas*. It is alleged that two years prior to the incident, the complainant had been involved in a quarrel with Respondent No.2 and he was beaten along with his wife to exact revenge. This led to registration of the FIR.

3.2. During investigation, *dandas* which were allegedly used in the incident were recovered.

3.3. The respondents were charge sheeted for the offences under Sections 308/341/34 of the IPC and the remaining suspects were found to be juvenile. Charges were framed for the offences under Sections 308/34 of the IPC and Sections 341/34 of the IPC.

3.4. By the impugned judgment, the learned Trial Court acquitted the respondents of the charged offences. It was observed that the victims, that is, the complainant and his wife, had improved upon their initial statements and no doctor was examined to establish that the injuries suffered by the victims could be caused by *danda* or *lathi*, or if the same were sufficient to cause death of the injured. It was further observed that the defence witnesses appeared to be interested witnesses and the non-examination of public persons who had allegedly gathered on the spot was fatal to the case of the prosecution.

3.5. Aggrieved by the same, the State has preferred the present leave petition.

4. At the outset, the learned counsel for the respondents has vehemently opposed the condonation of delay of 484 days in filing of the present petition. She submits that no proper explanation has been asserted for the delay apart from vague assertions of administrative issues.



5. The learned Additional Public Prosecutor ('APP') submits that considerable time was taken for procuring the certified copy of the impugned judgment and the delay was in part caused on account of the pandemic. She further submits that initially, the learned PP, Chief Prosecutor and the Director of Prosecution opined that the case was not fit for appeal, however, the learned Assistant Public Prosecutor (Advice) of the Law Department disagreed with the opinion, whereafter, the file went through various departments before approval for filing the appeal was obtained. She submits that the delay was caused on account of the pandemic as well as due to the fact that the file pertaining to the present case was sent before various authorities.

6. It is well settled that each day of the delay is required to be explained. In the application for condonation of delay, it is mentioned that the delay was caused on account of the pandemic as well as due to the fact that the file pertaining to the present case was sent before various authorities.

7. The Hon'ble Apex Court has frowned upon weaponing of the administrative procedure by the Government departments as a ground to seek condonation of delay. The Hon'ble Apex Court, in the case of **Postmaster General v. Living Media India Ltd. : (2012) 3 SCC 563**, had held that the Government cannot claim to have a separate period of limitation when the Department is possessed with competent persons familiar with court proceedings. The delay cannot be condoned mechanically merely because the Government or a wing of the Government is a party before the Court. The Hon'ble Apex Court had rejected the claim on account of impersonal machinery and bureaucratic methodology of making



several notes in view of the modern technologies being used and available.

8. Therefore, unless a reasonable and acceptable explanation for the delay is provided, the same cannot be condoned. As held by the Hon'ble Apex Court, the Government departments are obliged to ensure that they perform their duties with diligence and commitment.

9. Although lackadaisical attitude of officials and inefficiency of the State mechanism alone cannot be deemed to be sufficient reason to warrant condonation of delay, considering that the delay pertains to the period that was excluded for the purpose of limitation on account of Covid-19 pandemic by the Hon'ble Apex Court, this Court considers it apposite to also consider the case on merits.

10. It is argued on behalf of the State that the impugned judgment is bad in law as the learned Trial Court has failed to appreciate that there are no material contradictions in the testimonies of the witnesses. It is further argued that the complainant and his wife have deposed on similar lines and the testimony of the complainant's wife cannot be discarded merely because she is related to the complainant. It is submitted that no material was put forth by the accused persons to show that they had been falsely implicated in the case either.

11. On the other hand, the learned counsel for the respondent submits that the learned trial Court has rightly appreciated the entire material on record and given benefit of the infirmities in the case of the prosecution to the accused persons.

12. 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 ***State 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)

13. In the present case, the prosecution had examined nine witnesses to support its case, including the complainant (PW1), the complainant's wife (PW6) and the Investigating Officer (PW9).



14. The respondents raised the defence that they have been falsely implicated and examined three witnesses to show that at the time of incident, Respondent No.2 was not present at the spot and the accused persons had not inflicted any injuries upon the victims.

15. The case of the prosecution essentially rests upon the evidence of the complainant and his wife.

16. It is argued on behalf of the State that the learned Trial Court has been overtly weighed by the minute inconsistencies in the evidence of the witnesses, even though the contradictions and embellishments are not material in nature.

17. In his testimony, the complainant has deposed that on the date of the incident, Respondent No.1 along with some of his family members had surrounded him when he was parking his motorbike and Respondent No.1 had also taken the key of his motorbike, whereafter, he was assaulted by the said persons. He deposed that when his wife tried to save him, Respondent No.1 punched her in the face whereafter the other accused persons arrived on the spot with sticks and assaulted them. He further deposed that his wife was pulled by her hair and assaulted on her head, and the complainant also received an injury on the back side of his head. He further deposed that many persons of the locality collected at the spot and saved the victims. On being confronted during cross-examination about the additional allegations that were not mentioned in the initial statement, the complainant stated that a brief version of the allegations were recorded shortly after the case and he had given a complaint to a senior police authority. As noted by the learned Trial Court, no such complaint was placed on record to show that the complainant had made a complaint with the



detailed allegations. The learned Trial Court took note of the similar improvements made by the wife of the complainant in her testimony.

18. Although significant weightage is attached to the testimony of injured witnesses, in the present case, the improvements in the testimonies of the complainant and his wife raise serious apprehensions that they are attempting to exaggerate the events and embellishing facts, which undermines the reliability of their evidence. Improvements of such nature cast doubt on the case of the prosecution, the benefit of which has to undoubtedly go to the accused persons. Although it is argued that no material was put forth to endorse the defence of prior enmity, however, admittedly as per the complainant, he had prior quarrel with Respondent No.2, and the possibility of false implication cannot be ruled out.

19. The accused persons have been charged for the offences under Sections 308/34 of the IPC and 341/34 of the IPC. Although it is alleged that the complainant and his wife were dealt blows on their head by the accused persons, as rightly noted by the learned Trial Court, the victims suffered from simple injuries and were discharged after a short time, and the prosecution did not examine any doctor to establish that the injuries suffered by the victim could be caused by *danda* or *lathi*, or if the same were sufficient to cause death.

20. Moreover, as also noted by the learned Trial Court, even though it is alleged that other public persons gathered on the spot, no independent person was joined by the prosecution to corroborate the version as put forth by the complainant and his wife. While it is not necessary to join public witnesses in every



case, in such a case as this one, where the testimonies of the complainant and his wife is riddled with inconsistencies and there is no medical opinion to endorse that the alleged recovered weapon could even cause the concerned injuries, the absence of any independent corroboration casts further doubt in favour of the accused persons. It is peculiar that the Investigating Officer deposed that it was not revealed to him during investigation that whether or not public persons/ nearby residents had gathered at the time of the incident.

21. As noted above, the petition is filed with inordinate delay which as per prosecution, happened on account of varied opinions by different Public Prosecutors, which in the opinion of this Court, is not a sufficient ground for condoning the delay.

22. In view of the aforesaid discussion, this Court is of the opinion that the view taken by the learned Trial Court is plausible. The State has not been able to establish a *prima facie* case beyond reasonable doubt 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.

23. The leave petition along with the pending applications for condonation of delay are dismissed in the aforesaid terms.

AMIT MAHAJAN, J

AUGUST 26, 2025