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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.L.P. 440/2023 & CRL.M.A. 23335/2023**

STATE

.....Petitioner

Through: Mr. Ritesh Kumar Bahri, APP with
Mr. Lalit Luthra & Ms. Divya Yadav,
Advs.
Inspector Sachin Kumar Verma, PS
Krishna Nagar.

versus

DEEPAK@PAPPU

.....Respondent

Through: Mr. Sushil Gupta & Ms. Sunita Gupta,
Advs.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

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04.03.2025

1. This hearing has been done through hybrid mode.

CRL.M.A. 23335/2023 (for delay)

2. This is an application for condonation of delay in filing the appeal. For the reasons stated in the application, delay in filing the appeal is condoned. Application is disposed of.

CRL.L.P. 440/2023

3. The present petition has been filed on behalf of the Government of National Capital Territory of Delhi seeking leave to appeal against the impugned judgment dated 29th October, 2021 passed by Sh. Sanjeev Kumar Aggarwal, Additional Sessions Judge (Special Fast Track Court) East, North East and Shahdara District, Karkardooma Courts in Sessions Case No. 1111/2016 titled, *State v. Deepak @ Pappu* in FIR No. 309/2014 dated 12th May, 2014 registered at PS. Krishna Nagar under Sections 302/376/380 and



411 IPC.

4. Vide the impugned judgment, the Trial Court has acquitted the Accused.

5. It is stated that on 11th May, 2014, a PCR call was received vide DD No. 31A in PS Krishna Nagar regarding a girl committing suicide by way of hanging. On the said date, the concerned police officials reached the place of incident and found the girl lying unconscious. Thereafter, the girl was sent to SDN hospital where she was declared brought dead.

6. The Accused/Respondent herein is stated to be the son of the deceased's maternal uncle. The Accused appears to have been in a relationship with the girl, however, the evidence on record including the testimony of the mother of the deceased as also the post mortem report shows that the Accused had sexual intercourse with the deceased. Further, semen was also traced in the girl's body as is evident from the post mortem report.

7. The Trial Court has acquitted the Accused *inter alia* on the basis that semen can remain on a person for more than seven days. The relevant portion of the impugned judgment is extracted hereinunder:

“63. I am agree with the contention of Ld. Counsel for accused that FSL report only proved that accused had sexual intercourse with prosecutrix but same does not proved that it was done on the day of death of prosecutrix or on earlier date as semen in vagina of women can be found upto 7 days. Undoubtedly accused has taken no defense that he did sexual intercourse with prosecutrix but in my view merely failure of accused to take such defense does not lead to presumption that he did the same without consent of prosecutrix.”



8. Such a reasoning ought to be based on the evidence on record. Moreover, the Accused has not disputed the fact that he had sexual intercourse with the deceased but the claim is that it was by consent.

9. Be that as it may, the Accused was last seen near the house of the deceased by the mother of the deceased, after which the mother and the family found her dead after a few hours.

10. Mr. Bahri, Id. APP has submitted that there is no valid reasoning given for acquitting the accused. The Id. Counsel has further pointed out that there are five external injuries as per the post mortem report which could not have been present if it was a consensual relationship.

11. Id. Counsel for the Respondent, however, submits that the Trial Court has disbelieved the prosecution's case and according to him, this could have been a case of honour killing.

12. It is stated by the Id. Counsels that the Respondent has served more than seven years in custody.

13. In the opinion of this Court, this is a fit case for grant of leave as the matter requires further examination.

14. Leave granted. The present criminal leave petition is allowed and disposed of. The same may be registered as a criminal appeal and the Registry is directed to number it accordingly.

15. Leave petition is disposed of. Pending applications, if any, are also disposed of accordingly.

CRL.A...../2025 (to be numbered)

16. Admit.

17. Let the Respondent furnish bail bonds to the tune of Rs.5,000/- to the satisfaction of the Joint Registrar along with the surety of the like amount.



18. List before the Joint Registrar on 27th March, 2025.
19. List before the Court on 27th May, 2025.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

MARCH 4, 2025

gs/rks