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

+ **CRL.L.P. 460/2018**

STATE (NCT OF DELHI)

.....Petitioner

Through: **Mr. Aashneet Singh, APP with SI
Mamta, PS Dwarka Sector 23**

versus

RAJU SARDAR

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

28.01.2025

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1. This is a petition seeking leave to appeal against the judgment dated 23.02.2018, wherein the respondent has been acquitted for offences under Sections 279/304A IPC.
2. Mr. Singh, learned APP has drawn my attention to the statement of PW-5 /father of the minor child, wherein the operative portion reads as under:
“At that time i.e. about 4.30 PM one vehicle bearing registration no. DL-1LR-6967 was coming from Parvati Dharma Kanta towards our home. I was sitting outside my home. The tempo hit my boy on cycle from front. My boy Akash fell down. The accident happened due to fault of tempo driver as he was coming in fast speed. I saw the accused driving the tempo whose name I found to be Raju Sardar. He is present in court today (correctly identified by the witness). Accused had fled away with his vehicle. I had taken my



boy to hospital. He was declared brought dead and body was sent to DDL) Hospital. Thereafter, after postmortem, the body was handed over to me. My complaint was recorded which is now Ex.PW-5/A bearing my signature at point A. Police had come at the spot and prepared the site plan which is Ex.PW-5/B bearing my signature at point A. I do not want to say anything else.

XXXXX by Ld. APP for the State.

It is correct that the accused was arrested in my presence vide arrest memo Ex.PW-5/PX1 bearing my signature at point A. It is correct that accused Raju Sardar was restrained at the spot itself. I had earlier told that accused had fled away as the accused had gone a short distance before he was stopped and restrained. It is correct that the photographs of the offending vehicle are Ex.P1 (colly) (total 03 in number). It is correct that photographs of my child Akash's Cycle is Ex.P2.”

3. Despite the respondent having being seen by the father/PW-5 and despite the respondent being restrained at the spot, the Sessions Court has acquitted the respondent.
4. To my mind, the petitioner has shown a prima facie case which needs consideration.
5. The respondent appeared on 22.04.2024 and thereafter there is no appearance on behalf of the respondent.
6. For the said reasons, the leave to appeal is granted to the petitioner and the application is allowed.

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

7. Since the leave to appeal is allowed, the Registry is directed to



number the appeal.

8. “Admit”
9. List in due course.

JASMEET SINGH, J

JANUARY 28, 2025/DM

Click here to check corrigendum, if any