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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.L.P. 600/2018**
STATE

.....Petitioner

Through: Mr. Pardeep Gahlot, APP with SI
Vikrant Singh, PS Janakpuri.

versus

PRATEEK KATHPALIA

.....Respondent

Through: Not given.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

24.02.2025

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1. This is a leave to appeal seeking to challenge the judgment dated 10.05.2018 passed by learned CMM, West, Tis Hazari Courts in FIR No.202/2011, under Sections 279/338 of IPC, registered at Police Station Janakpuri, wherein the learned Trial Court acquitted the respondent for the said offences.
2. Brief facts are that on 29.06.2011, at about 3:00 pm, the victim Lt. Colonel Ms. Renu Kumari while going to her house from office in a scooty was hit from behind by a white color car 'i10' bearing Registration Number HR 26 BE 2510. The injured was thrown off her scooty and received injuries on her left shoulder and left knee. Hence, the FIR was registered.
3. After recording the evidence led by the parties, learned Trial Court has held that since the offending vehicle hit the scooty of PW-1 from behind, PW-1 cannot testify that the offending vehicle was being



driven in rash and negligent manner. Additionally, the testimony of PW-6 who is a mechanical expert was relied upon to hold that since the car was having damage on front bumper left side corner and the scooty was also damaged on the left side, the ingredients of the alleged offence could not be made out.

4. It is stated that the respondent has been served but nobody is appearing on his behalf, hence the leave to appeal is taken up for hearing.
5. Learned Trial Court failed to appreciate the judgment of ***Paras Nath v. State (NCT of Delhi), 2003 SCC OnLine Del 369*** and more particularly para 7 which reads as under:

“7. I am not in agreement with the submissions of the learned Counsel for the appellant. Merely because the witnesses did not use the words rashness or negligent in his testimony and instead used the words high-speed, cannot be taken that the appellant was not driving the vehicle in a rash or negligent manner, what is important to find out if the driver of the offending vehicle was driving in public place rashly and in negligent manner so as to endanger human life or to be likely to cause hurt or death to any other person. In the case in hand the appellant hit the scooterist from behind. It is not the case of the appellant that the scooterist had applied brake all of a sudden and therefore the appellant was taken unaware which led the appellant's truck hitting the scooter from behind. Act of negligence can be clearly attributed to the petitioner in this case as he is solely responsible for causing this accident without any fault of the scooterist. Rashness or



negligence can be determined from the manner in which the accident had take place. Even the site plan prepared by the Investigator which was exhibited as PW 5-C speaks about the negligence attributed to the petitioner. The appellant also admitted in his statement under Section 313 of the Code of Criminal Procedure that accident had taken place with his truck but denied that it was due to negligent and rash driving on his part.”

(Emphasis added)

6. Additionally, the offending vehicle could have just bumped against the scooty of the victim leading it to fall on the left side. The scratch on the scooty on the left side as well as the injuries on left arm and knee of the victim, *prima facie*, shows that the car was being driven by the respondent in rash and negligent manner.
7. For the said reasons, the issue needs detailed consideration.
8. In this view of the matter, the leave to appeal is granted to the petitioner and the application seeking leave to appeal is allowed.

CRL. A. /2025 (to be numbered)

9. Registry is directed to number the appeal.
10. As the appeal is pending since 2018, list the same for hearing on 24.07.2025.

JASMEET SINGH, J

FEBRUARY 24, 2025/pk

[Click here to check corrigendum, if any](#)