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

+ **CRL.L.P. 46/2018**

STATE

.....Petitioner

Through: Ms. Priyanka Dalal, APP
SI Chinki Yadav, PS Subhash Place

versus

KANHAIYA LAL PATHAK

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **09.01.2025**

CRL.M.A. 1144/2018-DELAY IN FILING APPEAL

1. This is an application seeking condonation of delay of 40 days in filing the appeal.
2. It is stated that there was delay in the department and when the department received the permission, the appeal along with the application for leave to appeal was filed.
3. I am satisfied that sufficient reason has been shown for condonation of delay. The delay is neither intentional nor deliberate.
4. For the said reasons, the delay of 40 days in filing the appeal is condoned.

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5. This is a petition seeking leave to appeal against the judgment dated 03.08.2017 passed by learned ASJ, Special Fast Tract Court, North-West, Rohini, Delhi in Sessions Case No. 190 of 2015 arising out of F.I.R No. 293 of 2012 under Section 376 IPC registered at Police Station Subhash Place wherein the respondent has been acquitted of the said offence.



6. In the present case, the order of acquittal is primarily based on the fact that the prosecutrix has not been consistent in her versions and has improved her version on every subsequent occasion.
7. It is further the opinion of the learned Trial Court that the prosecutrix did not report the incident in question i.e. the accused establishing physical relationship with her, immediately and hence there was a delay in reporting the matter to the police. Hence, the learned Trial Court in view of the fact that the prosecutrix failed to give strong and convincing evidence, acquitted the respondent.
8. According to me, *prima-facie*, the statement of PW-13, i.e. Prosecutrix, has clearly made out the ingredients of the offence under Section 376 of IPC.
9. Further, the respondent has been served and despite the repeated opportunities, no reply has been filed.
10. For the said reasons, I am inclined to allow the application and the petitioner is granted leave to appeal against the aforesaid judgement dated 03.08.2017.

CRL. A. /2025 (To be numbered)

11. For the reasons stated in the appeal, issue fresh notice to the respondent, returnable before the concerned Joint Registrar on 08.04.2025.

JASMEET SINGH, J

JANUARY 9, 2025/sp

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