



2023-04-13 16:24:02

\$~68

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CRL.A. 17/2022

BIPIN BIHARI SINGH

..... Appellant

Through: Mr. Sidharth Luthra, Senior Advocate
with Mr. Madhukar Pandey,
Mr. Ayush Kaushik, Mr. Angaj
Gautam and Mr. Kaushtubh Seth,
Advocates for Mr. Bipin Bihari
Singh, father of deceased.

versus

STATE AND ANR.

..... Respondent

Through: Ms. Aashaa Tiwari, APP for State.
Mr. J.P. Sengh, Sr. Advocate with
Mr. C. Prakash, Ms. Manisha Mehta
and Mr. R.L. Sinha, Advocates for
respondent no.2.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

%

17.01.2022

(through Video Conferencing)

The records of CA 34/2020 as were pending before the learned ASJ-05, North-West in terms of order dated 08.12.2021 and CRL.L.P. 159/2021 filed by the State assailing the very same impugned judgment as the same in CA 34/2020 were directed to be requisitioned to be heard with CRL.L.P. 159/2021 and have since been received and CA 34/2020 in terms of order dated 08.12.2021 has since been renumbered as Crl.A.17/2022.

In view of the verdict of the Hon'ble Supreme Court in "**Mallikarjun**



2023-04-13 16:24:02

Kodagali (Dead) vs. The State Of Karnataka” a verdict dated 12th October, 2018 with observations therein vide paragraph 77 & 78 thereof, which read to the effect:-

“77. Under the circumstances, on the basis of the plain language of the law and also as interpreted by several High Courts and in addition the resolution of the General Assembly of the United Nations, it is quite clear to us that a victim as defined in Section 2(wa) of the Cr.P.C. would be entitled to file an appeal before the Court to which an appeal ordinarily lies against the order of conviction. It must follow from this that the appeal filed by Kodagali before the High Court was maintainable and ought to have been considered on its own merits.

78. As far as the question of the grant of special leave is concerned, once again, we need not be overwhelmed by submissions made at the Bar. Crl. Appeal Nos._____/2018 (@ S.L.P. (Crl.) Nos.7040-7041 of 2014) The language of the proviso to Section 372 of the Cr.P.C. is quite clear, particularly when it is contrasted with the language of Section 378(4) of the Cr.P.C. The text of this provision is quite clear and it is confined to an order of acquittal passed in a case instituted upon a complaint. The word complaint has been defined in Section 2(d) of the Cr.P.C. and refers to any allegation made orally or in writing to a Magistrate. This has nothing to do with the lodging or the registration of an FIR, and therefore it is not at all necessary to consider the effect of a victim being the complainant as far as the proviso to Section 372 of the Cr.P.C. is concerned. Final order.”

The said appeal, CA 34/2020 as was pending before the learned ASJ, renumbered now as Crl.A.17/2022 is admitted for hearing.

Learned senior counsel along with counsel present on behalf of the respondent no.2 accepts notice of the said appeal.

The respondent no.2, in the circumstances thus, is admitted to bail qua



the alleged commission of the offences punishable under Sections 279/337/338/304A of the IPC, 1860 on his submitting a bail bond in the sum of Rs.1,00,000/- with two sureties of the like amount to the satisfaction of the Registrar General of this Court with directions that he shall not leave the country without the permission of the Court and shall before the Court as and when directed.

Written synopsis not exceeding five pages be filed on behalf of either side with copies thereof being exchanged *inter se*.

The copy of the Trial Court Record in the e-form be supplied to either side by the Registry.

The matter is directed to be re-notified for hearing on 25.02.2022.

ANU MALHOTRA, J

JANUARY 17, 2022

nc