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

CNR No. DLHC010110982026

+ **CRL.A. 281/2026**

RXXXXXXX

.....Appellant

Through: Mr. Aditya Kaushik, Adv.

versus

STATE GOVT. OF NCT OF DELHI & ANR.

.....Respondent

Through: Mr. Naresh Kumar Chahar, APP for
the State.

SI Ekta, PS: Sector-23, Dwarka and
SI Bhoop Singh, PS: Bindapur.

Ms. Priyanka Dagar, Adv. for R-2
with R-2 in person.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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11.08.2026

1. The appellant has filed the present appeal under Section 413 of the Bharatiya Nagarik Suraksha Sanhita ('**BNSS**') seeking to challenge the judgement of acquittal dated 17.11.2025 passed by the learned ASJ(SFTC), Dwarka Court, South-West District, New Delhi ("**Impugned Judgement**").
2. On a brief perusal of the record, the facts would reveal that on 16.03.2023, the complainant/appellant reported to PS Binda Pur that her father-in-law/respondent no. 2/accused, allegedly assaulted her due to her refusal to move earthen pots. She alleged that he slapped her and committed sexual assault, leading to the registration of FIR No. 212/2023 under



Sections 354B, 376, and 323 of the Indian Penal Code ('IPC'). Thereafter, the Investigating Officer ('IO') conducted her medical examination and recorded her statement under Section 164 of the Code of Criminal Procedure ('Cr.P.C.'). During investigation, the accused joined proceedings and stated that the complainant had filed multiple prior cases against him. Upon completing the investigation, the police filed a charge-sheet against the accused for offences under Sections 354B, 376, and 323 IPC.

3. Learned counsel appearing for the appellant submits that the findings rendered by the Courts below are perverse as there was enough material to hold the respondent guilty.

4. The submissions are opposed by learned APP for the State, who contends that the impugned judgment is in accordance with law.

5. I have considered the submissions made by learned counsel appearing for the parties and have perused the record.

6. It is well settled that while an appellate court possesses wide powers in an appeal against acquittal, such powers are to be exercised with circumspection, bearing in mind the double presumption of innocence attaching in favour of an accused who has secured an acquittal at trial. In **Chandrappa v. State of Karnataka**¹, the Supreme Court laid down the following principles:

"42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappraise and reconsider the evidence upon which the order of acquittal is founded.

(2) The Code of Criminal Procedure, 1973 puts no limitation,

¹ (2007) 4 SCC 415.



restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusions, both on questions of fact and of law.

(3) Various expressions, such as, ‘substantial and compelling reasons’, ‘good and sufficient grounds’, ‘very strong circumstances’, ‘distorted conclusions’, ‘glaring mistakes’, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of ‘flourishes of language’ to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

7. It is settled law that the Appellate Court must exercise caution and should only interfere in an appeal against acquittal where there are substantial and compelling reasons to do so. At the stage of grant of leave to appeal, the High Court has to see whether a *prima facie* case is made out in favour of the appellant or if such arguable points have been raised which would merit interference. The Supreme Court in the case of ***State of Maharashtra v. Sujay Mangesh Poyarekar***² held as under:

“Now, Section 378 of the Code provides for filing of appeal by the State in case of acquittal. Sub-section (3) declares that no appeal

² (2008) 9 SCC 475.



"shall be entertained except with the leave of the High Court". It is, therefore, necessary for the State where it is aggrieved by an order of acquittal recorded by a Court of Session to file an application for leave to appeal as required by sub-section (3) of Section 378 of the Code. It is also true that an appeal can be registered and heard on merits by the High Court only after the High Court grants leave by allowing the application filed under sub-section (3) of Section 378 of the Code. In our opinion, however, in deciding the question whether requisite leave should or should not be granted, the High Court must apply its mind, consider whether prima facie case has been made out or arguable points have been raised and not whether the order of acquittal would or would not be set aside. It cannot be laid down as an abstract proposition of law of universal application that each and every petition seeking leave to prefer an appeal against an order of acquittal recorded by a trial Court must be allowed by the appellate Court and every appeal must be admitted and decided on merits. But it also cannot be overlooked that at that stage, the Court would not enter into minute details of the prosecution evidence and refuse leave observing that the judgment of acquittal recorded by the trial Court could not be said to be 'perverse' and, hence, no leave should be granted.

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"We may hasten to clarify that we may not be understood to have laid down an inviolable rule that no leave should be refused by the appellate Court against an order of acquittal recorded by the trial Court. We only state that in such cases, the appellate Court must consider the relevant material, sworn testimonies of prosecution witnesses and record reasons why leave sought by the State should not be granted and the order of acquittal recorded by the trial Court should not be disturbed. Where there is application of mind by the appellate Court and reasons (may be in brief) in support of such view are recorded, the order of the Court may not be said to be illegal or objectionable. At the same time, however, if arguable points have been raised, if the material on record discloses deeper scrutiny and re-appreciation, review or reconsideration of evidence, the appellate Court must grant leave as sought and decide the appeal on merits. In the case on hand, the High Court, with respect, did neither. In the opinion of the High Court, the case did not require grant of leave. But it also failed to record reasons for refusal of such leave."

8. The learned ASJ in the Impugned Order has made the following



observations in para nos. 16 and 17 and is rendered as under:

“16. Prosecutrix/complainant (PW-1) is also not supported by any independent oral evidence. Testimony of her jethani, who was examined as PW2 cannot be relied upon as she is an interested witness who is interested in the outcome of the case against the accused who was her father-in-law as admittedly there were disputes, including property dispute within the family.

17. Apart from prosecutrix (PW-1) the prosecution had examined ‘C’ (Jethani) of the prosecutrix and her husband ‘NK\ No reliance can be made on the testimony of PW-2 ‘C’ as she is an interested witness herself and was hand in glove with the prosecutrix in the quarrel with in-laws. PW2 admitted in her cross-examination that case was also filed against her by her father-in-law and mother-in-law. Further, the testimony of husband of prosecutrix ‘NK’ (PW-3) is also not reliable as he is also an interested witness who appears to be interested in the outcome of the present case. Further, he was not an eye witness to the alleged incident.”

9. Further, the learned ASJ in para nos. 25 & 26 has concluded the impugned judgement by noting the following, the said paras are extracted as under:

“25. Thus, in view of the above, it can be said that the testimony of the prosecutrix is just bald averments and the same is unreliable and motivated for the reasons mentioned above. There is no independent witness to corroborate the testimony of the prosecutrix. Neither there is any forensic or medical evidence against the accused. The complainant/prosecutrix had refused for her medical examination. The present FIR/PCR was registered only as a counter blast to the FIR registered against the prosecutrix for offence u/s 323/341/34 IPC. Several cases were already got registered by the prosecutrix against her in laws due to quarrels and property disputes within the family. Admittedly, the prosecutrix was residing in the house owned by her father-in-law (accused herein).

CONCLUSION

26. Therefore, keeping in view all the facts and circumstances of the case, the unreliable statement of complainant cannot be taken as gospel truth at its face value and in absence of any other supporting evidence. No independent witness had been examined by the prosecution and there is no cogent evidence against the accused. Thus, the Court is of the considered opinion that the prosecution has miserably failed to establish its case



against the accused. Consequently, accused Om Prakash is acquitted of the charges U/s 354B/354/323/376 IPC and he is set at liberty.”

10. Bearing in mind the categorical findings rendered by the Court below, and the fact that the testimony of the PW1-complainant, PW2-jethani and PW3-husband of the complainant are not of sterling quality, it does not inspire confidence, therefore, this Court is not inclined to interfere into the Impugned Judgment.

11. It is also relevant that a grievance against the accused was pending at the instance of the witnesses. Therefore, bearing this fact in mind, the Court has discarded the testimony of those said witnesses, treating them as interested witnesses.

12. For the reasons aforesaid, the Court does not find any reason to grant leave to file an appeal against the impugned judgment dated 17.11.2025.

13. Accordingly, the application fails and is hereby dismissed.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 11, 2026/P/Ad