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

+ **CRL.L.P. 512/2019**

STATE (GNCT OF DELHI)

.....Petitioner

Through: Mr. Shoaib Haider, APP for the State.
SI Shubham.

versus

SALMAN

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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06.07.2026

CRL.M.A. 35486/2019 (for delay)

1. For the reasons stated in the application, the same is allowed and the delay of 18 days in filing the instant appeal stands condoned.
2. The application is disposed of.

CRL.L.P. 512/2019

1. The present Criminal Leave Petition under Section 378(3) of the Criminal Procedure Code, 1973, is directed against the judgment and order of acquittal dated 08.05.2019, passed by Ld. Additional Sessions Judge, Karkardooma Court.
2. On the basis of the complaint, FIR No.1378/2014 was registered for the offence punishable under Sections 354A/354D of the Indian Penal Code, 1860 and Section 8/12 of the Protection of Children from Sexual Offences Act, 2012.



3. After completion of the investigation, the chargesheet was filed on 19.04.2017. The petitioner pleaded not guilty and claimed trial *qua* the offences under Sections 354A and 345D of IPC and Section 12 of POCSO. In furtherance of which, *vide* order dated 21.09.2017 Ld. Addl. Sessions Judge, Karkardooma Court passed an Order on Charge.

4. *Vide* the impugned judgment dated 08.05.2019, the Trial Court did not find sufficient material to convict the accused. The trial court in paras 29 to 33 has recorded the following findings:

“29. The allegations against the accused is that prior to 17.12.2014, he had been regularly following the victims. As per the statement Ex.PW1/A, on the basis of which the FIR was registered, the accused would even tease the victims when they would be going to and coming from the school. However, as per PW7 SZ, accused would follow them whenever they would go to school. As per the victim ST, she and PW7 used to go to the school together and accused would always misbehave with them. Therefore, according to the victim, accused would misbehave with them whenever they would be going to the school. However, it is to be noticed that as per their father, even prior to the incident, he had been regularly dropping the victims to the school on his motorcycle. He had further deposed that prior to the incident, he had never seen the accused. Therefore, if the father of the victims had been dropping the victims to the school; first of all there could have been no occasion for the accused to eve tease the victims in the presence of their father and secondly, the father of the victims has categorically stated that prior to that day, he had never seen the accused despite the fact that he had been regularly dropping the victims to the school in the morning.

30. Now coming on to the date of incident. According to the initial case of the prosecution, accused was caught by the father of victims when he (accused) had put his hand on the shoulder of victim ST. This according to the prosecution is the purported statement of the father of victims although he had denied making this statement. However, the 10 has proved this statement as Ex.PW3/l. However, when the father of victims appeared as PW1, he deposed that on the day of incident, he was following the victims. He did not state that he had caught the accused when accused had put his hand on the shoulder of the victim. He rather stated that he had caught the accused because the accused had said to the victim 'hi madam'. Now this is an improvement and new version which has come during the testimony of this witness. This witness further during his cross examination stated that



accused had not uttered any word to the victim. If that be the case then his testimony in examination in chief, that the accused had said 'hi madam' to the victim and then he caught the accused, is falsified.

31. It is also to be noticed that according to the victim also accused had not uttered a single word or done any act. She stated that on reaching near the school, they saw the accused and she pointed the accused to her father and her father caught the accused. Thus, has been attributed to the accused by victim ST. However, contradicting to both these witnesses i.e PW1 and PW6, the younger sister of victim who appeared as PW7 stated that accused had put his hand on the shoulder of the victim.

32. It is also to be noticed that according to the victim's father, he was following the victim. However, according to the victim, her father was ahead of them. Therefore, there are many contradictions in the testimonies of the victim and their father with regard to as to what happened on the day of incident. Thus, it is not proved beyond all reasonable doubts that accused had committed any act on that day. It is especially so because according to the victim ST, he had not done any act on that day and on seeing him, she had pointed him to her father.

33. Further, there is also force in the contention of learned counsel for accused that there is manipulation of the record because according to the father of the victims, 10 had not arrived at the spot and it was two male police officials who arrived on motorcycle and within two minutes, they took the accused with them. He had then followed the accused to the PS. However, the 10 had stated that she reached the informed place and found the accused, victims and their father at the spot. Here again, the testimony of the 10 regarding finding the victims at the spot comes under a cloud of doubt because according to the victim, after accused was taken to the PS, victims went to school and thus, there is force in the contention of learned counsel for accused that the matter has not been investigated in a proper manner”

5. Heard learned counsel appearing on behalf of the petitioner and perused the record.

6. It is well settled that in an appeal against acquittal, the scope of the Appellate Court is to the extent that the judgment of acquittal should not be ordinarily interfered with unless the findings in such judgment are shown to be arrived at by an incorrect or perverse appreciation of the material on



record and the law.

7. This settled position of law with respect to the scope of the learned Appellate Court *qua* an appeal against the acquittal has been considered in a catena of judgments by the Supreme Court. In ***Basheera Begam v. Mohd. Ibrahim***¹ Supreme Court in paragraphs 190 and 191 has held as under:-

*“190. At the cost of repetition, it is reiterated that the burden of proving an accused guilty beyond all reasonable doubt lies on the prosecution. If upon analysis of evidence two views are possible, one which points to the guilt of the accused and the other which is inconsistent with the guilt of the accused, the latter must be preferred. **Reversal of a judgment and order of conviction and acquittal of the accused should not ordinarily be interfered with unless such reversal/acquittal is vitiated by perversity.** In other words, the court might reverse an order of acquittal if the court finds that no person properly instructed in law could have upon analysis of the evidence on record found the accused to be “not guilty”. When there is circumstantial evidence pointing to the guilt of the accused, it is necessary to prove a motive for the crime. However, motive need not be proved where there is direct evidence. In this case, there is no direct evidence of the crime.*

191. In Sadhu Saran Singh v. State of U.P , this Court observed that an appeal against acquittal has always been on an altogether different pedestal from an appeal against conviction. In an appeal against acquittal, where the presumption of innocence in favour of the accused is reinforced, the appellate court would interfere with the order of acquittal only when there is perversity. In this case, it cannot be said that the reasons given by the High Court to reverse the conviction of the accused are flimsy, untenable or bordering on perverse appreciation of evidence”

[Emphasis Supplied]

8. Bearing in mind the principle laid down by the Supreme Court, there is no reason to interfere or grant to leave to file the appeal.

9. It was for the petitioner to demonstrate the perverseness in the impugned judgment passed by the Sessions Court in order to cause interference by this Court. The Supreme Court in ***Manju Ram Kalita V.***

¹ (2020) 11 SCC 174.



State of Assam², observed in paragraph 9 as under:

“9. ...It is a settled legal proposition that if the courts below have recorded the finding of fact, the question of reappreciation of evidence by the third court does not arise unless it is found to be totally perverse...”.

10. In view of the above, there is no ground made out to interfere with the judgment passed by the Sessions Court dated 08.05.2019.

11. The present petition is dismissed and disposed of accordingly alongwith the pending application(s), if any.

PURUSHAINDR KUMAR KAURAV, J

JULY 6, 2026/P/NK

² (2009) 13 SCC 330.