

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : INDIAN PENAL CODE

Cr.L. Petition No. 65/2006

DATE OF DECISION : December, 02, 2008

Smt.Riaz Bano ...

Appellant
Through: Mr. P.K.Nayyar, Advocate.

versus

State and Anr. ...

Respondents
Through: Mr. Amit Sharma, learned Additional Public
Prosecutor for the State.

SUNIL GAUR, J.

Cr.L.Misc. 2824/2006

There is delay of one month in refiling of the accompanying leaveA petition. Heard. For the reasons stated in the application, which is supported by the affidavit of the learned counsel for the petitioner, the delay in refiling is condoned. The application stands disposed of accordingly. Cr.L.P.No. 65/2006 Vide impugned judgment dated 3rd October, 2005, learned Metropolitan Magistrate has acquitted respondent No.2, who was accused of committing offence under Section 380/448/34 of the Indian Penal Code. A criminal leave petition by a complainant/first informant of a FIR case is not maintainable. However, on this ground, it will not be fair to throw out this petition. Therefore, to secure the ends of justice, this petition is treated as criminal revision petition against the impugned order. The Registry is directed to register this petition as criminal revision petition and to number it. Heard. Learned counsel for the petitioner submits that the acquittal of respondent/accused is primarily based upon the contradictions found in the testimony of prosecution witnesses. Reliance has been placed upon judgment of Punjab and Haryana High Court reported in 2005 (3) JCC (Narcotics) 250 to contend that discrepancies are likely to occur due to lapse of time. There is no dispute with the aforesaid proposition. However, the trial court has found that there are many contradictions, which are material one. Furthermore, many material witnesses of this case have not been got examined by the prosecution and above all, even the Investigating Officer of this case has not deposed at trial. Prosecution is seriously handicapped on this account. Upon careful perusal of the impugned judgment and the evidence on record, I

find that there is no illegality or infirmity in the impugned judgment warranting any interference by this court. As such, this petition is dismissed being bereft of merit.

Sd./-

SUNIL GAUR, J

December, 02, 2008