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

*Date of decision: 20<sup>th</sup> May, 2026.*

*Uploaded on: 23<sup>rd</sup> May, 2026*

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**CRL.A. 356/2019**

X

.....Appellant

Through: Ms. Supriya Juneja and Ms. Shreya  
Lamba, Advs. (M: 9711347312)

versus

STATE & ANR.

.....Respondents

Through: Mr. Ritesh Kumar Bahri, APP with  
Mr. Lalit Luthra and Ms. Divya  
Yadav, Adv. for State with SI Pragati  
Soni PS Paharganj.

Mr Akash Gupta; Mr Atul Kumar  
Gupta; Mr Rajat Sharma, Advs. for R-  
2. (M: 9868043624)

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**JUSTICE MADHU JAIN**

**Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.
2. The present appeal challenges the impugned judgment dated 13<sup>th</sup> August, 2018 passed by the ld. Additional Sessions Judge (Spl. FTC-2), (Central), Tis Hazari Courts, Delhi in **Case No. 16/2017** arising out of **FIR No. 261/2016** registered at P.S. Pahar Ganj, by which the Respondent No.2 has been acquitted from the charges under Section 328/376(2)(n)/506 IPC by giving him benefit of doubt. The operative portion of the impugned judgment reads as under:

*“74. In the instant case, the facts and circumstances are*



*beating the drum that the prosecutrix was a consenting party.*

*75. Since there is no evidence regarding stupefying substance served upon the prosecutrix, hence, prosecution has been failed to prove its case against accused u/s 328 IPC beyond reasonable doubt.*

*76. From the close scrutiny of testimony of the prosecutrix, it is proved that prosecutrix was consenting with the accused. Accordingly, from the close scrutiny of evidence available on record, it is established that prosecution has been failed to prove its case beyond reasonable doubt. Accordingly, accused Suresh Sharma is acquitted from the charges u/s 328/376(2)(n)/506 IPC by giving him benefit of doubt.*

*77. In terms of section 437 A Cr.P.C. accused is directed to execute bail bond in sum of Rs.25,000/- with one surety in the like amount.*

*78. Since prosecutrix has been consenting with accused and she has misused the due process of law, hence, no compensation is awarded to her.*

*79. File be consigned to record room.”*

3. The State had earlier sought leave to file appeal against the said judgment by way of a criminal leave petition being **CRL.L.P. 634/2018**. *Vide* order dated 1<sup>st</sup> October, 2018, a Coordinate Bench of this Court has taken a view on merits in the following terms:

*“ The State has preferred the present petition to seek leave to appeal against the judgment dated 13.08.2018 rendered by the learned ASJ, Special FTC-2 (Central), Tis Hazari Courts, Delhi in case No. 16/2017 arising out of FIR No. 261/2016 whereby the respondent-accused*



*has been acquitted of the charge under Sections 328/336(2)(n)/506 IPC.*

*The case of the prosecution was that the accused had firstly administered some stupefying substance upon the prosecutrix and raped her at her residence while none of the family members was present. The prosecutrix states that the accused had taken photographs and made a videograph of the said act and he threatened the prosecutrix with uploading of the said photographs/videograph on facebook and on that pretext, he subsequently raped her on several occasions. When she made the call on 21.06.2016, she had similarly been raped at Uday Palace Guest House at 3:00 PM. She claimed that her husband had given Rs. 2.5 lacs to the accused and the same had not been returned to him and when he demanded back the money, the accused threatened that he would upload her photographs on facebook. No photographs/videograph as alleged by the prosecutrix was recovered. The fundamental premise of the prosecutrix was therefore not established. It came out in the evidence that the prosecutrix had of her own accord gone to the said guest house on repeated occasions with the accused. She did not make any complaint either to the police or even to her relatives including her husband after the first alleged act or thereafter.*

*The submission of Mr. Katyal is that upon medical examination of prosecutrix after she made the complaint, semen was found in the samples collected. That may be so. That does not lead to conclusion of rape as the conduct of the prosecutrix shows that she had been voluntarily going with the accused to the guest house on several occasions. Thus, as held by the trial Court, the action of the prosecutrix in making the complaint after the incident of 21.06.2016 being a part of a plan cannot be ruled out. Accordingly, we find not*



*merit in this petition.*

*Dismissed.”*

4. The State’s leave to appeal was, accordingly, dismissed.
5. In view of the fact that the Coordinate Bench has already taken a view on the merits of the matter upholding acquittal of the Respondent No. 2, the present appeal filed by the victim can not be treated differently. The said order dated 1st October, 2018 would be binding in this matter before this Court as well.
6. Accordingly, considering the view taken and in view of the reasons given in the order dated 1<sup>st</sup> October, 2018, the present appeal is dismissed. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH  
JUDGE**

**MADHU JAIN  
JUDGE**

**MAY 20, 2026/dk/msh**