



IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment Reserved on: 17.08.2026

Judgment pronounced on: 20.08.2026

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CNR No. DLHC010419562023

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CRL.A. 884/2023 and CRL.M.A. 28555/2023

TALAT SHAHEDI

.....Appellant

Through: Mr. Digvijay Rai, Advocate with Mr.
Archit Mishra and Mr. Saurabh
Kansal, Advocates.

versus

VIBHOR AHLUWALIA & ANR.

.....Respondents

Through: Mr. Madhav Khurana, Sr. Advocate
alongwith Mr. Nikhil Pillai, Mr.
Shaurya and Mr. Athak Walia,
Advocates for Respondent No.1
Ms. Manjeet Arya, APP for State/R-2
with SI Deepak Yadav

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under the proviso to Section 372 of
the Code of Criminal Procedure, 1973 (the Cr.P.C.), PW1, the



husband of the deceased in Criminal Appeal No. 204170/2016 on the file of the Additional Sessions Judge-05, South East District, Saket Courts, New Delhi challenges the judgment dated 28.10.2022 by which the judgment dated 05.11.2015 in Serial No. 696/2012 on the file of the Metropolitan Magistrate, South, Saket Courts acquitting the respondent/accused for the offences punishable under Sections 279, 337 and 304A IPC has been confirmed.

2. The prosecution case is that on 24.08.2005, at about 01:00 P.M., while Shahin Praveen, the wife of PW1, was returning after picking up her daughter from school, and when she reached near Bhisham Pitamah Marg, Sai Baba Mandir Bus Stand, Pragati Vihar, New Delhi, the accused driving Toyota Corolla car bearing registration No. DL 7CG 0316 in a rash and negligent manner so as to endanger human life, knocked her down resulting in causing injuries to which she later on succumbed. Ayesha, the daughter of Shahin Praveen was also injured in the incident. As per the charge-



sheet/final report, the accused is alleged to have committed the offences punishable under Sections 279, 337 and 304A IPC.

3. On the basis of information received *vide* Ext. PW12/A DD Entry given on 24.08.2005, crime no. 227/2005, Lodhi Colony Police Station, was registered for commission of offences punishable under Sections 279, 337 and 304A IPC by CW12 (Charge Witness) Head Constable. PW14, Sub-Inspector (SI) conducted investigation into the crime and on completion of the same, filed the charge-sheet/final report alleging the commission of the offences punishable under the aforementioned Sections.

4. When the accused was produced before the trial court, all the copies of the prosecution records were furnished to him as contemplated under Section 207 Cr.P.C. The particulars of the offences punishable under Sections 279, 337 and 304A IPC, as contemplated under Section 251 Cr.P.C., was read over and explained to the accused, to which he pleaded not guilty.



5. On behalf of the prosecution, PWs. 1 to 14 were examined and Ext. PW1/A, Ext. PW3/A, Ext. PW4/A, Ext. PW8/A, Ext. PW9/A-B, Ext. PW11/A, Ext. PW12/A, Ext. PW13/A-E, Ext. PW14/A-C, Ext. A and Ext. PX1 were marked in support of the case.

6. After the close of the prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against him in the evidence of the prosecution. The accused denied all those circumstances and maintained his innocence. The accused submitted that he has been falsely implicated in the case and that he was neither driving the offending car nor was he responsible for the incident. He had taken the injured to Mool Chand Hospital, being a law abiding citizen.

7. No oral or documentary evidence was adduced by the accused.

8. Upon consideration of the oral and documentary evidence on record, and after hearing both sides, the trial court,



vide judgement dated 05.11.2015, acquitted the accused under Section 255(1) Cr.P.C. of the offences punishable under Sections 279, 337 and 304A IPC. Aggrieved, PW1, the husband of the deceased, filed Criminal Appeal No. 204170/2016 before the Court of Session concerned. The appellate court *vide* the impugned judgement dated 28.10.2022 dismissed the appeal by confirming the judgement of acquittal by the trial court. Aggrieved, PW1 has preferred this appeal.

9. Heard both sides.

10. It was submitted by the learned Senior Counsel appearing on behalf of respondent no.1/accused that the present appeal is not maintainable as the proviso to Section 372 Cr.P.C. confers upon a victim a right of appeal only once and does not contemplate successive appeals against the same order of acquittal. Consequently, having exhausted the remedy available under the proviso to Section 372 Cr.P.C., the appellant has no further statutory right to maintain the present appeal. Reliance was placed



on the dicta in **Asian Paints Ltd. v. Ram Babu, (2025) 10 SCC 372; Gopala Krishnan vs. State of Kerala, 2026:KER:811** and **Mahesh v. Gunderao, 2026 SCC OnLine Kar 932.**

11. On the other hand it was submitted by the learned counsel for the appellant that the present appeal is maintainable as the proviso to Section 372 Cr.P.C. says that the victim has a right to prefer an appeal against any order passed by the Court acquitting the accused and that such appeal lies to the Court to which an appeal ordinarily lies against the order of conviction of such Court. Reference was made to the dictum in **Joseph Stephen v. Santhanasamy (2022) 12 SCC 115** in support of the argument.

12. In **Joseph Stephen (Supra)** the appellants therein along with the other accused persons were tried for having committed offences punishable under Sections 147, 148, 324, 326, 307 and 506(Part II) read with Section 149 IPC. The Chief Judicial Magistrate, Tiruchirapalli, by judgment dated 28.09.2012, convicted them for the aforesaid offences except for the offences



punishable under Sections 307 and 506(Part II) IPC. The Additional Sessions Judge, Tiruchirapalli, by judgment dated 18.01.2013, allowed the appeal filed by the accused persons and acquitted them. The appeal filed by the victim against the acquittal of the accused persons for the offences punishable under Sections 307 and 506(Part II) IPC was dismissed. The victim thereafter invoked the revisional jurisdiction of the High Court under Sections 397 and 401 Cr.P.C. The High Court set aside the order of acquittal passed by the appellate court, and restored the conviction recorded by the trial court. The High Court also modified the sentence. Aggrieved by the High Court's exercise of revisional jurisdiction in reversing the acquittal and consequently convicting them, the accused persons approached the Apex court.

12.1. The Apex court held that in the light of Sub-Section (3) of Section 401 Cr.P.C., the High Court could not have converted a finding of acquittal into one of conviction. If the High Court in exercise of its revisional power finds that there is manifest error of



law or procedure, then the two options available are — one, to remit the matter to the appellate court to rehear the appeal; or two, in appropriate cases to remit the matter to the trial court for retrial. The order of conviction by the High Court while exercising its revisional jurisdiction under Section 401 Cr.P.C. was held to be unsustainable and beyond the scope and ambit of Section 401 Cr.P.C., especially in the light of Sub-Section (3) to Section 401 Cr.P.C. Referring to Sub-Section (4) of Section 401 Cr.P.C., it has been held that where an appeal lies and no appeal is filed, no proceeding by way of revision can be entertained at the instance of the party who could have appealed. The victim has a statutory right of appeal against the order of acquittal by virtue of the proviso to Section 372 Cr.P.C. In such circumstances, no revision could be entertained at the instance of the victim against the order of acquittal in a case where no appeal was preferred. It was further held that the High Court has jurisdiction to treat the application for revision as a petition for appeal and deal with the same as per Sub-



Section (5) to Section 401 Cr.P.C. Holding so, the impugned judgment of the High Court reversing the acquittal and convicting the accused was set aside and the matter was remitted to the High Court with a direction to treat the revisional application as an appeal under Section 372 Cr.P.C. and to decide and dispose of the same on merits in accordance with law.

13. The dictum in **Joseph Stephen (Supra)** is apparently not applicable to the facts of the present case. Unlike in the aforesaid case, the appellate court in this case has confirmed the order of acquittal passed by the trial court. There cannot be any second appeal in such circumstances. (See also judgement dated 08.01.2026 of the High Court of Kerala in **Gopala Krishnan v. State of Kerala and others, unnumbered CRL.L.P. Filing No. 366 of 2025, 2026:KER:81: MANU/KE/0066/2026**)

14. In these circumstances, I hold the appeal to be not maintainable and dispose the same accordingly.



15. The registry shall return the certified copy of the impugned judgment to the appellant.

16. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

AUGUST 20, 2026

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