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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of Decision: 03rd July, 2026**

+ CRL.M.C. 9819/2024&CRL.M.A. 37649/2024

VIJAY PANDEY AND OTHERS Petitioner

Through: Mr. Ashwin Vaish, Ms. Shubhi
Vijaywargiya, Mr Uttam Panwar & Mr.
Aaditya Sharma, Advs.

versus

STATE GOVT. OF NCT OF DELHI Respondent

Through: Mr. Sunil Kumar Gautam, APP for the
State with SI Anil

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The challenge in the present petition is very limited.
2. Four accused persons were facing trial for committing offences under Sections 302/308/34 IPC.
3. They were, eventually, held guilty and convicted. When an appeal was filed by them, conviction order dated 13.03.2024 was set aside with direction to the learned Trial Court to record supplementary statements of the accused persons under Section 313 Cr.P.C as some part of the incriminating evidence had not been put to them.
4. Pursuant to such directions, learned Trial Court took up the matter on 05.12.2024. Accused Inder Kumar, Vijay Pandey and Narender Kumar were present and their supplementary statements were recorded. In their statements, they also claimed that they did not wish to lead any further defence evidence. Since accused Raju Singh was not present, learned Trial Court issued coercive process against him.
5. The abovesaid order dated 05.12.2024 is under challenge before this Court.



6. Learned Counsel for the petitioner, vehemently, submits that on that particular date, learned Trial Court should have avoided the recording of statements for the reason that their counsel was not present. He submits that the presence of defence counsel is very crucial at each and every stage of the case and, therefore, such statements should have been recorded, either in the presence of the defence counsel or by appointing some other Advocate/*Amicus Curiae*. He asserts that the accused persons were from rural background and were desirous of leading evidence in defence but failed to understand and comprehend the question and implication of their answer. It is argued that if their counsel was present at the relevant time, he would have, at least, apprised the Court that in view of such supplementary statements, there was, actually speaking, requirement of leading further defence evidence.

7. When the present petition was taken up by the learned Predecessor Bench on 13.12.2024, the proceedings of the learned Trial Court were directed to be stayed. Such stay continues to be in operation.

8. After some arguments, Sh. Ashwin, learned counsel for the petitioner, submitted that, while reserving all his rights and contentions, he would have no objection if the present petition is disposed of by permitting the accused persons to lead evidence in defence. He submits that, though, at earlier point of time, few defence witness were examined but under the changed circumstances, some of them and some others would be required to be summoned.

9. He also states that statement of accused Raju is also yet to be recorded and a direction to said effect may also be given. He, thus, while reserving his rights and contentions in relation to the manner in which the statements of accused were recorded under section 313 Cr.P.C., does not pray for any further relief, at this juncture.

10. Learned APP, who appears on behalf of the State, has no objection to the



abovesaid limited request.

11. The next date before the learned Trial Court is stated to be 08.07.2026.

12. The Court is conscious of the fact that accused are facing murder trial. Though, ideally speaking, defence counsel should have appeared himself on said date or in alternate, at least, accused should have prayed for adjournment in case they were apprehensive or uncomfortable in responding to the questions in absence of their counsel, keeping in the mind the overall facts of the case and the limited prayer made by Mr. Ashwin, learned counsel for the petitioner, the present petition is disposed of with the following directions:-

- i. The next date of hearing before the learned Trial Court is 08.07.2026 and on the above said date, ld. Trial Court shall draw a schedule for recording of statement of accused Raju. In case, accused Raju is present along with his counsel, learned Trial Court would be at liberty to record his statement, same day.
 - ii. On his such appearance before the Court, the coercive process used against him (accused Raju) shall be deemed to be recalled.
 - iii. All the accused would be permitted to lead evidence in defence. They would, however, submit list of their witnesses before the learned Trial Court, within two weeks from today.
13. Present petition is disposed of in aforesaid terms.
14. Pending application also stands disposed of.

(MANOJ JAIN)
JUDGE

JULY 3, 2026/da/sa