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

Judgment delivered on: 17th September, 2015

+ **CRL.M.C. 3058/2014**

HARI SINGH AND ORS

..... Petitioners

Represented by: Mr.Sanjeev Goyal and
Ms.Sangeeth Mohan, Advs.

versus

STATE OF NCT DELHI & ANR.

..... Respondents

Represented by: Mr.Sudhershnan Joon, APP
for the State/R1.
Mr.Gagan Gupta, Adv for
Respondent No.2.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. As per mediation report dated 11.09.2015 matter could not be settled.
2. With the consent of parties, instant matter is taken up for disposal today itself.
3. Vide the present petition, petitioners seek a direction thereby setting aside the orders dated 16.01.2013 and 11.04.2014 passed by learned Trial Court in pending trial of case FIR No.128/1997 registered at PS Pahar Ganj, Delhi whereby the applications of the petitioners for granting an opportunity to cross-examine PW1, PW3, PW6 and PW9 have been denied with a cost of Rs.3,000/-.
4. On perusal of the order sheet dated 08.02.2008, the chief

examination of PW1 was completed and deferred for cross-examination. On 06.05.2008, learned counsel for petitioners sought time as main counsel was not available, however, the request was turned down and thus, the evidence of PW1 was closed. As regards, PW3, PW6 and PW9 are concerned, I have seen the orders and their testimony. There is no cross examination to these witnesses. PW1 is the complainant, PW3 is eye-witness, PW6 Investigating Officer of the case and PW9 is the person, who assisted the Investigating Officer in the investigation of this case throughout. Therefore, the cross examination of all these four witnesses is necessary to decide the case pending against the petitioners punishable for the offences punishable under Sections 380/448/341/427/506/34 of the IPC.

5. After going through the orders passed qua these witnesses and their testimonies, I am of the considered opinion that in the interest of justice, all four above noted witnesses required to be cross-examined by petitioners.

6. Accordingly, the orders dated 16.01.2013 and 11.04.2014 passed by learned Trial Court are hereby quashed.

7. Accordingly, learned Trial Court shall give the opportunity to the petitioners to cross-examine all the above four witnesses. Needless to state that cross-examination of these witnesses will be subject to their availability and petitioners shall not seek any adjournment for their cross-examination when the witnesses appeared in the witness box.

8. Parties are directed to appear before learned Trial Court for further direction on 05.10.2015.

9. In above terms, instant petition is allowed.

Crl.MA. No.10576/2014(Stay)

Dismissed as infructuous.

**SURESH KAIT
(JUDGE)**

SEPTEMBER 17, 2015

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