

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

Date of Decision: March 18, 2015

+ CRL.M.C. 1076/2015 & Crl. M.A.Nos. 4044-45/2015

ANIL GUPTA & ORS.

..... Petitioners

Through: Mr. Ajay Burman, Mr. Karan
Burman, Mr. Aditya Swarup
Agarwal, Mr. Harsit Khurana, Mr.
Kiran Sidhu & Mr. Amritesh Raj,
Advocates

versus

STATE (GOVT OF NCT OF DELHI)

..... Respondent

Through: Ms. Nishi Jain, Additional Public
Prosecutor for respondent-State
with Inspector Rameshwar

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

(ORAL)

%

Impugned order of 14th January, 2015 declines petitioner's application under Section 311 of the Cr.P.C. for cross-examination of the injured (*PW-12*) of FIR No. 283/2004, under Section 307/34 of the IPC, registered at police station Kalkaji, New Delhi.

The reason to reject petitioner's application is that the injured (*PW-12*) has been extensively cross-examined and recalling of the said witness for further cross-examination is not justified.

Learned counsel for petitioner submits that injured (*PW-12*) has been cross-examined regarding the enmity but has not been cross-examined at all regarding the actual incident and it will take one hour by

watch to cross-examine him on the point of incident and thereafter, cross-examination of injured (*PW-12*) would be closed.

This petition is opposed by Ms. Nishi Jain, learned Additional Public Prosecutor for respondent-State who submits that on few occasions, adjournment has been sought on behalf of petitioner and the intention is to harass the witness and delay the proceedings.

This is strongly refuted by learned counsel for petitioner, who submits that if it is so found then petitioner be put to terms.

Upon hearing and on perusal of the impugned order and the copy of deposition of injured (*PW-12*), I find that further cross-examination of injured (*PW-12*) is essential for the just decision of this case. The undertaking furnished on behalf of the petitioner to cross-examine injured (*PW-12*) for one hour only by watch is taken on record.

This petition is disposed of while allowing petitioner's application under Section 311 of the Cr.P.C. subject to cost of ₹50,000/- to be deposited with the Prime Minister's Relief Fund before the next date of hearing before the trial court. It is made clear that only one effective opportunity is granted to conclude cross-examination of the injured (*PW-12*).

With aforesaid directions, this petition and applications are disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

MARCH 18, 2015

r