

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

Date of Decision: January 13, 2015

+ **CRL.M.C. 3680/2014 & Crl.M.As.12684-85/2015**

SUMIT AGGARWAL

..... Petitioner

Through: Mr. Maninder Singh, Mr. Jagmeet
Randhawa and Ms. Aekta Vats,
Advocates

versus

STATE

..... Respondent

Through: Ms. Nishi Jain, Additional Public
Prosecutor for respondent-State
with SI Mousam Ghani

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Petitioner is facing trial for the offence under Section 304-B of IPC in FIR No.139/2007 registered at P.S. Mayur Vihar, New Delhi.

Petitioner's application under Section 311 of Cr.P.C. for recalling of *complainant- Ajay Kumar Tulsiyan (PW-1)* stands rejected by trial court vide impugned order of 22nd July, 2014 on the ground that *complainant- Ajay Kumar Tulsiyan (PW-1)* has been already extensively cross-examined and the three suicide notes are part of the charge-sheet and copy of the same was provided to the accused and because it is an old case pertaining to the year 2007.

Learned counsel for petitioner submits that although the three suicide notes of 17th April, 2007 were part of the charge-sheet, but

complainant- Ajay Kumar Tulsiyan (PW-1) has not deposed in respect of thereof and for the first time, these three suicide notes have been exhibited by the Investigating Officer (PW-21) and so, it is essential for the just decision of the case to cross-examine the *complainant- Ajay Kumar Tulsiyan (PW-1)* in respect of these three suicide notes.

Learned Additional Public Prosecutor for State submits that the instant application has been filed only to delay the proceedings and since these suicide notes were part of the charge-sheet, therefore, petitioner ought to have cross-examined *complainant- Ajay Kumar Tulsiyan (PW-1)* about them and the case is still at the stage of recording of statement under Section 313 of Cr.P.C.

Learned counsel for petitioner submits that he has to ask few questions only from *complainant- Ajay Kumar Tulsiyan (PW-1)* in respect of these three suicide notes and the further cross-examination of complainant would not be prolonged.

Upon hearing and on perusal of the impugned order, copy of the deposition of *complainant- Ajay Kumar Tulsiyan (PW-1)* and the Investigating Officer (PW-21), I find that the complainant has nowhere deposed about these three suicide notes and therefore, petitioner would be well within his right to cross-examine *complainant- Ajay Kumar Tulsiyan (PW-1)* in respect of these three suicide notes and further cross-examination of *complainant- Ajay Kumar Tulsiyan (PW-1)* in respect of these three suicide notes is essential for the just decision of this case.

Consequently, this petition is allowed and petitioner is allowed to recall *complainant- Ajay Kumar Tulsiyan (PW-1)* and petitioner is granted one effective opportunity to further cross-examine him in respect

of these three suicide notes on the date so fixed by the trial court.

This petition and the applications are accordingly disposed of.

Copy of this order be given *dasti* under the signatures of the Private Secretary/Court Master to learned counsel for petitioner.

(SUNIL GAUR)
JUDGE

JANUARY 13, 2015

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