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

Date of Decision: February 09, 2015

+ **CRL.M.C. 4181/2013 & CrI.M.A. 14923/2013**

RAJESH KUMAR Petitioner
Through: Mr. Ratnesh Kumar Shukla and
Mr. Krishna Kumar Singh,
Advocates

versus

KATWARU RAM Respondent
Through: Nemo

**CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR**

% **JUDGMENT**
(ORAL)

In a Criminal Complaint No.256/1 under Sections 147/148/149/323/452 of IPC, petitioner was granted permanent exemption vide order of 2nd June, 2011 of Metropolitan Magistrate (*Annexure P-4*). After mediation was not successful, vide impugned order of 29th August, 2013 permanent exemption granted to petitioner has been withdrawn as the proceedings had commenced for the post-charge evidence.

While entertaining this petition, petitioner has been exempted vide order of 25th October, 2013 subject to petitioner appearing through counsel. Respondent was put to notice. Mr. S. K. Mishra, Advocate, appeared on behalf of respondent on 23rd May, 2014 and had sought

adjournment. Thereafter, on 21st August, 2014 and 15th December, 2014, none had appeared on behalf of respondent. Today also, none has appeared on behalf of respondent even on the second call in the post lunch session.

In the above background, this petition was heard.

Learned counsel for petitioner submits that petitioner is gainfully employed in Abu Dhabi, United Arab Emirates as a salesman and it is a question of his livelihood and so, he be exempted from appearing in person before trial court as his identity would not be disputed at trial and his counsel would be appearing on his behalf and no adjournment would be sought on behalf of petitioner.

Upon hearing and on perusal of the impugned order of 29th August, 2013, I find that no reason is forthcoming as to why earlier order of 2nd June, 2011 has been varied.

In view of aforesaid, impugned order of 29th August, 2013 is quashed with direction to decide afresh the question of permanent exemption to petitioner in the light of order of 2nd June, 2011 after affording an opportunity of hearing to respondent-complainant. Petitioner is permitted to appear through counsel before the trial court on the date fixed i.e. 20th April, 2015.

This petition and the application are accordingly disposed of.

(SUNIL GAUR)
JUDGE

FEBRUARY 09, 2015

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