

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

RESERVED ON : FEBRUARY 11, 2015

DECIDED ON : FEBRUARY 19, 2015

+ CRL.REV.P. 503/2014 & CrI.M.A.13226/2014

MEHBOOB HASAN

..... Petitioner

Through: Mr. Hasan Anzar with Mr. Samama
Suhail, Advocates.

versus

STATE

..... Respondent

Through: Ms. Kusum Dhalla, APP.
Insp. Sanjay Kumar, P.S.Najafgarh.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J.

1. Aggrieved by the order dated 22.07.2014 of learned Additional Sessions Judge-03, Dwarka, whereby the application under Section 311 Cr.P.C.to recall PW-4 (Atul Khullar), PW-14 (Amar Pal Verma) and PW-29 (Insp.R.R.Khatana) for further cross-examination and to summon Daljeet Singh as court witness was declined with costs ₹2,000/-, the instant revision petition has been preferred by the petitioner.

2. I have heard the learned Additional Public Prosecutor and learned counsel for the petitioner and have examined the record. The

petitioner is facing trial under Section 392/302/34 IPC in FIR 239/93 and was arrested in 2009. The prosecution examined 29 witnesses to substantiate its case. An application moved on 07.01.2010 by the petitioner to preserve certain call detail record of various mobile phones was allowed by an order dated 13.01.2010. The petitioner examined defence witnesses. The instant application was moved thereafter on 03.05.2014 and was dismissed with reasoned order by the trial court on 22.07.2014. PW-4 and PW-14 were cross-examined at length in 2010. PW-29 (Insp.R.R.Khatana) was questioned on number of dates thoroughly on various aspects and all sorts of questions were put to him. No reasonable explanation has been offered by the petitioner for not moving any application to recall them at the earliest. The petitioner was well aware about the statements given by these witnesses and had moved the application to preserve call detail record of various mobile phones owned and possessed by them. Nothing has been explained how their further cross-examination on any vital fact is relevant for the just decision of the case. It appears that only intention of the petitioner is to delay the trial by filing various applications under Sections 311 Cr.P.C. It is unexplainable as to why the petitioner intends to recall Daljeet Singh as court witness. It is alleged by the petitioner that all these PWs were in constant touch with

each other on various dates at the relevant time on phone and hatched conspiracy to falsely implicate him in this case. The Trial Court is yet to return any such finding and all these pleas can be raised before the Trial Court at the time of final disposal of the case.

3. The petition lacks merits and is dismissed with costs ₹20,000/- to be deposited with the Prime Minister's Relief Fund within two weeks.

4. Crl.M.A.13226/2014 also stands disposed of. Trial Court record (if any) be sent back along with the copy of this order.

5. Observations in the order shall have no impact on the merits of the case.

(S.P.GARG)
JUDGE

FEBRUARY 19, 2015

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