

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

% Order delivered on: 12th January, 2015

+ **CrI.M.C. 3978/2014 & CrI.M.A. No.16542/2014**

SURESH SHARMA Petitioner
Through Mr.Rahul Kumar, Adv.

versus

RAJEEV GUPTA Respondent
Through Mr.R.S. Mahla, Adv.

CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J.

1. Brief facts of the case are that on 5th October, 2008 the respondent gave beatings to the petitioner which caused him injury as per complaint case No.15/1/12. The trial court has framed a charge against the respondent for offence under section 323 IPC on 12th November, 2013. The evidence was concluded on 6th May, 2014. Thereafter, the case was fixed for final arguments as last opportunity. In the meanwhile, the petitioner filed an application under section 311 Cr.P.C. for recalling more witnesses. The said application was dismissed by the learned trial court on 7th July, 2014.

2. Against the said order, a Criminal Revision No.94/2014 was filed by the petitioner in which it was stated that if the impugned order is not set aside it may result into miscarriage of justice to the

petitioner as the evidence of two witnesses is necessary in order to bring out the facts on record.

3. I have heard the learned counsel for the petitioner. It appears to me that the petitioner was granted ample opportunity to produce the evidence. After the completion of entire evidence when the matter was put up for final arguments, the petitioner filed the application under section 311 Cr.P.C. It is also a matter of fact that the name of two witnesses, which are mentioned in the application under section 311 Cr.P.C. for recalling more witnesses, were not mentioned in the list of witnesses at the time of filing of the complaint. It appears to the Court that the petitioner is trying to cover up his case by producing more witnesses.

4. In view of the above, I am not inclined to interfere with the order dated 28th July, 2014 passed by the Revisional Court as I do not find any infirmity in the said order. Even otherwise, the scope of interference in the present petition is very limited. The petition is dismissed.

5. The interim order passed on 28th October, 2014 is vacated.

(MANMOHAN SINGH)
JUDGE

JANUARY 12, 2015