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

Date of Decision: 29th June, 2015

+ CRL.M.C. 2555/2015 & CrI.M.A.Nos.9089-90/2015

OM PRAKASH DHAKOLIA Petitioner

Through: Mr. Satish Pandey, Advocate

versus

CENTRAL BUREAU OF INVESTIGATION (CBI)

..... Respondent

Through: Ms.Sonia Mathur, Special Public
Prosecutor for CBI with Mr. Sushil
Dubey, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

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(ORAL)

Petitioner is facing trial in CC No.33/12, *CBI Vs. Om Prakash Dhakolia* for the offences under Sections 120B/420/468/471 of the IPC read with Section 13 (i) (d) & 13 (2) of *The Prevention of Corruption Act, 1981* and vide impugned order of 11th February, 2015, his application under Section 311 of the Cr.P.C. for recalling of Investigating Officer (*PW-21*) has been declined by the trial court while noting that Investigating Officer (*PW-21*) is a formal witness.

Notice.

On behalf of respondent-CBI, it is submitted that the Investigating Officer (*PW-21*) was discharged in pre-lunch session when counsel for

petitioner was not available.

Upon hearing and on perusal of the impugned order of 11th February, 2015, I find that Investigating Officer (*PW-21*) cannot be said to be a formal witness and for the lapse on the part of petitioner's counsel, petitioner ought to be put to terms.

In view of the aforesaid, this petition is allowed and impugned order of 11th February, 2015 dismissing petitioner's application under Section 311 of the Cr.P.C. is hereby quashed subject to cost of ₹25,000/- to be deposited with the *Prime Minister's Relief Fund* within a week and upon placing on record its original receipt before the trial court, one effective opportunity be given to petitioner to cross-examine Investigating Officer (*PW-21*).

This petition and applications are disposed of in aforesaid terms.

Trial court be apprised of this order forthwith.

(SUNIL GAUR)
JUDGE

JUNE 29, 2015

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