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

\+ CRL.REV.P. 362/2015

MOHINDER KUMAR VERMA ..... Petitioner

Through Mr. S.D. Tiwari, Adv.

versus

THE STATE (NCT OF DELHI) ..... Respondent

Through Mr. M.P. Singh, APP.

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

O R D E R

% 29.06.2015

Crl.M.A.9064/2015

Exemption allowed, subject to just exceptions.

Application is disposed of accordingly.

Crl.Rev.P.362/2015

The petitioner has challenged the orders dated 01.05.2015 and 22.06.2015 passed by the learned Chief Metropolitan Magistrate, Tis Hazari Courts, Delhi, in complaint case no.307/2001 (titled as Court Complaint vs. Mahender Kumar Verma). Perusal of the aforesaid orders would reveal that despite the Revisional Court order dated 29.04.2015, no opportunity was given to the petitioner to get himself examined as a defence witness.

Be it noted that the prayer made by the petitioner under Section 315 Cr.P.C. was allowed by the Court below on 01.07.2014. Thereafter, the Revisional court, on finding that no opportunity was

given to the applicant to examine himself as a defence witness, directed the court below to give atleast one effective opportunity to the petitioner to get himself examined as a defence witness. After that order, when the matter was taken up by the learned Chief Metropolitan Magistrate, instead of providing such opportunity to the petitioner, posted the case for final arguments on 22.06.2015. On 22.06.2015, an application for transfer of the case from that court to some other court was filed by the petitioner. Such application was rejected summarily on the ground that if at all the petitioner was aggrieved or had apprehensions that he would not get justice, resort could be had to the specific provision in the law for transfer of a case from one court to another court. However, without complying with the orders of the Revisional court, the matter was again fixed for final arguments on 30.06.2015 by order dated 22.06.2015. Both the orders have been impugned in present petition.

This court is mindful of the fact that charges were framed in the year 2005 and the trial of the case has not concluded till date. Be that as it may, in the interest of justice, the court below i.e. court of the learned Chief Metropolitan Magistrate, Tis Hazari Courts is directed to provide one opportunity to the petitioner to get himself examined as a defence witness. It is also made clear that if the petitioner does not avail of such an opportunity, it would not be open to him to agitate the same matter again.

The Chief Metropolitan Magistrate should have been more careful in perusing the order passed by the Revisional court which was clear and unambiguous.

The court below is directed to allow the petitioner to have himself examined as a defence witness on the next date i.e. 30.06.2015.

The orders dated 01.05.2015 and 22.06.2015 are modified accordingly.

The application stands allowed.

Copy of the order be given dasti under the signature of the Court Master.

Crl.M.A. 9133/2015

The application has become infructuous.

Dismissed as infructuous.

ASHUTOSH KUMAR, J

JUNE 29, 2015/ab