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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.REV.P. 582/2015, 13315/2015, CrI.M.A.13630/2015
PRAVEEN VATS Petitioner
Through: Mr. Pawan Sharma, Adv.

versus

STATE (GNCT-DELHI) Respondent
Through: Mr.M.P. Singh, APP for the State

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **18.09.2015**

CrI.M.A.13258/2015

Exemption granted subject to all just exceptions.

Application stands disposed of.

CRL.REV.P. 582/2015 & CrI.M.A.13315/2015, CrI.M.A.13630/2015

The petitioner is aggrieved by the order dated 7.9.2015 passed by the learned Special Judge (PC Act)-05, (ACB), Tis Hazari Courts whereby examination of PWs 36 and 37 has been closed on the ground that the trial of the case has unnecessarily been delayed for their cross-examination.

It has been submitted on behalf of the petitioner that on 27.4.2015 when PW36 had appeared before the Court for being examined, the Bar was abstaining from work and as a result thereof he was examined-in-chief but his cross-examination could not be done. Later, an application was preferred by the petitioner seeking recall of PWs 36 and 37 under Section 311 of the Cr.P.C., which prayer was allowed by order dated 25.5.2015. Thereafter on 7.9.2015, it was submitted on behalf of PW 36 that because of his pre-occupation with the law and order arrangement for the impending

visit of the Hon'ble Prime Minister to Chandigarh, he could not attend the Court.

The Trial Court, taking note of the fact that summons were issued for cross-examination of PW 36 on several dates and for some reason or the other he could not be cross-examined, held that conclusion of trial has been delayed on that account. The Court, however, clarified that in case of non-availability of witness, whatever deposition has been recorded shall be taken on record as his evidence.

The Court below was, therefore, of the opinion that that the aforesaid witness cannot be summoned without unnecessarily delaying the disposal of the trial.

Learned counsel for the petitioner submits that the delay is not on account of any kind of any laches on his part.

The evidence is complete only when the witness is examined and cross-examined.

Thus the order closing the cross-examination of PW36 does not appear to be cogent and tenable.

The order dated 7.9.2015 is, therefore, set aside.

The Trial Court is directed to summon PW36 for him to be cross-examined. Let it be also made clear that when the aforesaid witness is called for cross-examination, and if he is not cross-examined by the petitioner, such right of the petitioner would be forfeited.

The petition is disposed of in terms of the aforesaid.

In view of the order passed in Crl. Rev. P.582/2015, all the pending applications have become infructuous.

Dasti.

ASHUTOSH KUMAR, J

SEPTEMBER 18, 2015
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