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

+ CRL.M.C. 1045/2016

ANIL YADAV

..... Petitioner

Through Mr. Chirag Khurana, Adv.

versus

STATE

..... Respondent

Through Ms. Rajni Gupta, APP for State with
SI Vineeta Prasad, PS Subhash Place.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

25.07.2016

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Aggrieved by the order dated 15th May, 2013 dismissing the application of the petitioner seeking recall of PW-2 Dr. Bhawana Gupta for cross-examination, the petitioner prefers the present petition.

Learned counsel for the petitioner explains that though the impugned order was passed on 15th May, 2013 however the petitioner was not advised to challenge the said order as he was in custody. After he was released on bail, he noted the consequences of non-cross-examination of PW-2 and thus present petition has been filed though belatedly.

I have heard learned counsel for the parties.

Dr. Bhawana Gupta was the doctor who first examined the prosecutrix and as per her examination she has noted marks on the body of the prosecutrix. No cross-examination of this witness was conducted. Needless to say that Dr. Bhawana Gupta is an important witness to the outcome of the trial against the petitioner and laxity on the part of earlier

counsel who failed to cross-examine material witness should not prejudice the petitioner.

I am informed by learned counsel for the parties that the matter is fixed for recording of statement of petitioner under Section 313 Cr.P.C. for 26th July, 2016.

Before recording the statement of the petitioner under Section 313 Cr.P.C., the learned Trial Court will give one opportunity to the petitioner to cross-examine Dr. Bhawana Gupta PW-2. The petitioner will move necessary application in this regard before learned Trial Court. It is clarified that on the date when Dr. Bhawana Gupta appears before the learned Trial Court, no adjournment will be granted to the petitioner.

Petition is disposed of.

Order dasti under signatures of Court Master.

MUKTA GUPTA, J.

JULY 25, 2016
‘vkm’