

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

**RESERVED ON : 26th MAY, 2016
DECIDED ON : 10th AUGUST, 2016**

+ CRL.M.C.3391/2010 & CRL.M.A.No.16767/2010

DIRECTORATE OF REVENUE INTELLIGENCE..... Petitioner

**Through : Ms.Pooja Bhaskar, Proxy counsel for
Mr.Satish Aggarwala, Advocate.**

versus

BEAM TECHNOLOGY & ORS. Respondents

Through : Mr.Naveen Malhotra, Advocate.

**CORAM:
HON'BLE MR. JUSTICE S.P.GARG**

S.P.GARG, J.

1. Present petition under Section 482 Cr.P.C. has been filed by the petitioner "Directorate of Revenue Intelligence" (In short 'DRI') to challenge the correctness and legality of an order dated 05.10.2010 of learned Addl. Chief Metropolitan Magistrate whereby application moved under Section 311 Cr.P.C. was dismissed. The petition is contested by the respondents.

2. I have heard the learned counsel for the parties and have examined the file.

3. A complaint case was filed against the respondents on 17.04.2003 for commission of offence punishable under Section 135 Customs Act. Various opportunities were taken by the petitioner to

complete its pre-charge evidence. Despite uncountable adjournments availed by the prosecution, it failed to examine all the witnesses in its pre-charge evidence. Vide order dated 13.12.2006, the pre-charge evidence was closed. The matter was listed for arguments on charge. Various adjournments attributable to both the parties were taken for consideration of charge. When the matter was listed for arguments on charge on 05.10.2010, the instant application under Section 311 Cr.P.C. was moved to seek permission to examine Mr.K.K.Sharma who had accorded sanction for the prosecution. By the impugned order, the said request was declined.

4. Needless to say, the petitioner was not at all diligent to pursue its case. Despite the fact that its pre-charge evidence was closed way-back in 2006, no urgency was shown by the prosecution to move the application under Section 311 Cr.P.C. to examine Mr.K.K.Sharma at the earliest.

5. Record reveals that the sanction order (Ex.PW-1/B) has already been proved in the testimony of PW-1 (K.P.S.Reddy). The petitioner now intends to examine the Officer who had accorded sanction to meet the specific objection raised by the respondents at the time of addressing arguments on charge.

6. Examination of Mr.K.K.Sharma who had accorded the sanction will cause no prejudice to the respondents as the sanction order is already on record. For delay of four years in moving the application, the petitioner can be burdened with costs.

7. In the interest of justice, let the petitioner be accorded one effective opportunity to examine Mr.K.K.Sharma to prove the sanction order before the Trial Court. The petitioner is burdened with costs ₹5,000/- to be

deposited within a week with the Delhi High Court Legal Services Committee.

8. The petition stands disposed of in the above terms. Pending application also stands disposed of. Copy of the order be sent to the Court concerned.

9. Trial Court record (if any) be sent back forthwith.

(S.P.GARG)
JUDGE

AUGUST 10, 2016 / *tr*

