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

DECIDED ON : 20th DECEMBER, 2016

+ **CRL.M.C. 2403/2016 & CRL.M.A.No.10275/16**

C L BHOLA & ORS.

..... Petitioners

Through : Mr.Dinesh Garg, Advocate.
VERSUS

CBI (ACB)

..... Respondent

Through : Ms.Sonia Mathur, Standing Counsel
with Mr.Sushil K.Dubey, Mr.Rakshit
Thakur & Mr.Abhishek Chauhan,
Advocates.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

1. Present petition has been preferred by the petitioners to challenge the legality and correctness of an order dated 02.07.2016 by which application under Section 311 Cr.P.C. moved on behalf of the respondent – CBI was allowed to recall 29 witnesses for examination. The petition is contested by the respondent.

2. I have heard the learned counsel for the parties and have examined the file. Undisputedly, the petitioners are facing trial under Section 13 (2) read with Section 13(1)(e) of PC Act. Recording of the statements of the prosecution witnesses is underway. Out of 87 witnesses, 65 prosecution witnesses have so far been examined. It is informed in response that five witnesses have since expired; two have been dropped by the order of the Trial Court and three witnesses are not being examined as

certain documents to be proved by them have been admitted by the petitioners. Summons have been issued to the remaining ten witnesses but they are un-traceable.

3. By the impugned order, CBI has been permitted to produce 29 witnesses detailed therein. All these witnesses are primarily official witnesses. They have been cited to prove certain documents which are already on judicial record. Certain witnesses have been called due to death of the earlier witnesses who were to prove the relevant documents. In the application and response, the purpose for which these witnesses are being summoned to prove various documents on record has been specified. It cannot be inferred that the statements of these witnesses will fill-up lacunas in the prosecution case as alleged. The Trial Court has imposed huge costs of ₹50,000/- for delay in producing these witnesses. Learned counsel for CBI assured that the costs will be deposited with DLSA (East), KKD Courts, Delhi, in compliance of the said orders. The Trial Court has also taken care of the delay which could be caused due to examination of 29 witnesses. To avoid it, case has been ordered to be taken up on every Tuesday and Wednesday till the completion of entire evidence.

4. The impugned order based upon fair appreciation of the facts and law deserves no intervention. The petition lacks merits and is dismissed. Pending application also stands disposed of.

5. Trial Court record (if any) be sent back forthwith with the copy of the order.

(S.P.GARG)
JUDGE

DECEMBER 20, 2016 / tr