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

DECIDED ON : 29th AUGUST, 2016

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CRL.REV.P.568/2016

RAJEEV KUMAR

..... Petitioner

Through : Mr.Sanjeev Bhardwaj, Advocate with
Mr.Rajan Chaudhary, Advocate.

versus

THE STATE (GOVT. OF NCT OF DELHI)

..... Respondent

Through : Ms.Meenakshi Dahiya, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

CRL.M.A.No.13304/2016 (Exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CRL.REV.P.568/2016 & CRL.M.A.No.13303/2016 (Stay)

1. Present revision petition under Section 397 Cr.P.C. has been preferred by the petitioner to challenge the legality and correctness of an order dated 20.07.2016 by which his application to confront the prosecutrix with the recorded conversation in the mobile was dismissed.

2. I have heard the learned counsel for the petitioner and have examined the file. The petitioner is facing trial in case FIR No.389/2015 under Sections 376/417/506 IPC registered at PS Subzi Mandi. Charge has

already been framed. The prosecutrix 'P' appeared before the Trial Court on 23.11.2015, 11.12.2015 and 07.01.2016 for recording her examination-in-chief. She was cross-examined partly on 01.02.2016, 05.04.2016, 19.04.2016 and 14.05.2016. She was completely cross-examined on 27.07.2016.

3. During the cross-examination of prosecutrix, application in question was moved to take on record the expert opinion, the transcription contained in mobile phone having IMEI No.91140104757536 regarding the conversation between the prosecutrix and the petitioner. By the impugned order, the learned Trial Court declined to play the recorded conversation in the mobile to confront the prosecutrix. I find no illegality or irregularity in the impugned order. The Expert opinion, the transcription, etc. were not brought on record at the relevant stage. The prosecutrix, during her examination, was not expected to be taken by surprise to be confronted with the alleged conversation recorded in the mobile. Relevancy and the authenticity of the alleged conversation is still to be ascertained. The Trial Court has already given opportunity to the petitioner to produce all these documents in his defence as per law.

4. In the light of above discussion, I find no merit in the petition and it is dismissed. Pending application also stands disposed of.

(S.P.GARG)
JUDGE

AUGUST 29, 2016 / tr