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

+ **CRL.M.C. 3179/2016**

**AWADESH NARAYAN**

..... Petitioner

Represented by: Mr. Hemant Kumar, Mr. Mohit Chhibber, Advs.

versus

**STATE**

..... Respondent

Represented by: Ms. Rajni Gupta, APP with  
Insp. Sangha Mitra, PS  
Rajinder Nagar.

**CORAM:**

**HON'BLE MS. JUSTICE MUKTA GUPTA**

**ORDER**

**02.09.2016**

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CrI.M.A. 13601/2016

Exemption allowed subject to just exceptions.

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1. Aggrieved by the order dated 14<sup>th</sup> July, 2016 the petitioner who is an accused in FIR No.187/2013 pending trial before the Special Judge, ACB vide CC No.1/2015 has preferred the present petition. Vide the impugned order the State was permitted re-examination of PW-14 Brijesh Mishra.

2. Learned counsel for the petitioner contends that since the petitioner was able to elucidate from Inspector Brijesh Mishra PW-14 in cross-examination that the post-mortem was got delayed as one of the daughter of

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the deceased was abroad, the State cannot be given liberty to re-examine the witness as has been directed vide the impugned order dated 14<sup>th</sup> July, 2016. He further states that the application filed by the State for re-examination must disclose on what issues re-examination of the witness is sought.

3. The State filed an application in the above-noted trial on the ground that during cross-examination PW-14 Inspector Brijesh Mishra had introduced certain new facts, thus the same were required to be clarified by re-examination.

4. Section 137 of the Indian Evidence Act permits re-examination of the witness subsequent to the cross-examination. The very purpose of re-examination is to explain new facts which has been brought out in the cross-examination. Following the decision of the Supreme Court reported as (1998) 8 SCC 649 Rammi @ Rameshwar Vs. State of M.P. and Bhura @ Sajjan Kumar Vs. State of M.P. the learned Special Judge noted that the purpose of re-examination is to explain matters which has been brought out in cross-examination and the same should be liberally granted.

5. Further Section 138 Indian Evidence Act also provides:

*“138. .... Direction of re-examination- The re-examination shall be directed to the explanation of matters referred to in cross-examination; and, if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.*

6. It is thus evident that the very purpose of re-examination is to explain facts which have cropped up in cross-examination with a further right to the adverse party to cross-examine the witness.

7. In view of the provision of Section 138 Indian Evidence Act and the law laid down by the Supreme Court I find no infirmity in the impugned order passed by the learned Special Judge permitting re-examination of the witness.

8. Petition is dismissed.

**MUKTA GUPTA, J.**

**SEPTEMBER 02, 2016**  
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