

\$~78

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

DECIDED ON : SEPTEMBER 8, 2016

+

CRL.M.C. 4729/2015

SUKHDEV SINGH

..... Petitioner

Through : Mr.S.K.Duggal with Mr.Vinod,
Advocates along with petitioner
present in person.

versus

THE STATE (NCT OF DELHI) & ORS

..... Respondents

Through : Mr.Panna Lal Sharma, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. Present petition under Section 482 Cr.P.C. has been preferred by the petitioner to challenge the legality and correctness of an order dated 20.07.2015 by which the application filed by respondent Nos.2 and 3 (hereinafter referred to as 'accused persons') to recall PW-1 (Sukhdev Singh) and PW-8 (SI Dalbir Singh) under Section 311 Cr.P.C. was allowed. The petition is contested by the accused persons.

2. I have heard the learned counsel for the petitioner and have examined the file. Undisputedly, the accused are facing trial in case FIR No.134/2011 under Section 308/34IPC registered at Police Station

Paharganj. Statements of the prosecution witnesses have already been recorded. Statements of the accused persons under Section 313 Cr.P.C. have been recorded on 6.1.2015. The case was adjourned for final arguments; part arguments were heard. On 18.03.2015, the accused persons moved the instant application to summon PWs 1 and 8 to confront them with the contents of the complaint case filed by the complainant.

3. PWs 1 and 8 were examined on 21.11.2013 and 16.12.2014 respectively. The application to recall both these witnesses was not moved promptly. The Trial Court noted in the impugned order that the accused persons were negligent in moving the application to recall the witnesses.

4. It has come on record that the complaint case filed by victim/complainant was tagged along with State case. The documents which are to be put to PWs 1 and 8 in cross-examination to confront them were already on judicial record. Complaint Case under Section 200 Cr.P.C. has been filed by the complainant/petitioner and its contents cannot be denied by him. Obviously, these can be looked into by the Trial Court at the time of final disposal of the State case also.

5. Similarly, status report filed by the Investigating Officer is a part of the judicial record and can be referred to by the accused persons at the time of final disposal of the case. These documents need not to be put in the cross-examination of PWs 1 and 8 merely to confront them. Recall of PW-1 (Sukhdev Singh) and PW-8 (SI Dalbir Singh) would unnecessarily cause inconvenience to the witnesses and prolong the disposal of the case.

6. Considering the facts and circumstances of the case, the impugned order recalling PW-1 (Sukhdev Singh) and PW-8 (SI Dalbir Singh) is set aside. The Trial Court, however, will be at liberty to examine

the contents of the complaint case filed by the complainant and the status report given by the Investigating Officer at the time of final disposal of the State case.

7. The petition is disposed of in the above terms. Trial Court record along with the copy of the order be sent back forthwith.

(S.P.GARG)
JUDGE

SEPTEMBER 08, 2016
sa

