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

+ CRL.REV.P. 41/2016

CHANDER MOHAN MAGGON Petitioner

Through: Mr.Sanjay Mishara, Advocate.

versus

TARANDEEP SINGH Respondent

Through: Mr.Alok Kumar Pandey, Advocate.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **12.02.2016**

Crl.M.A.No.766/2016

1. For the reasons stated in the application, 15 days' delay in filing the revision petition is condoned.

2. Application stands disposed of.

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1. The petitioner is aggrieved by the order dated 22.08.2015 whereby the application filed by the respondent /complainant under Section 311 Cr.P.C. has been allowed by the learned Trial Court.

2. Learned counsel for the petitioner has submitted that reasons given by the learned Trial Court that cross examination of the complainant has not been concluded, is not correct. He has drawn the attention of this Court to the copy of the statement of respondent/complainant Tarandeep Singh to show that his statement was partly recorded on 12.09.2014 and completed on 30.03.2015. The impugned order has been passed on 22.08.2015 i.e. almost after a period of five months from the date the statement of the complainant has been completed.

3. Vide impugned order the learned MM while allowing the application

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under Section 311 Cr.P.C. filed by the respondent/complainant, passed the following order :-

'I have perused the complaint and the affidavit in evidence and both make specific reference to the agreement to sell dated 05.09.2011 and written note dated 10.02.2012. The remaining documents sought to be placed on record pertain to the agreement to sell dated 05.09.2011. The present case is still at the stage of complainant's evidence and the cross examination of the complainant has yet not been concluded. In these circumstances, in the interest of justice the application stands allowed subject to cost of ₹2000/- to be deposited in DLSA.'

4. Since the cross examination of the complainant had been concluded five months prior to the date when impugned order was passed, the reason given for allowing the application is contrary to the record.

5. Thus, the impugned order dated 22.08.2015 is set aside. The learned Trial Court is directed to dispose of the application afresh after giving an opportunity of being heard to the parties, taking note of the fact that statement of complainant had already been concluded on 30.03.2015.

6. Revision petition stands disposed of in above terms.

7. A copy of this order be sent to the learned Trial Court for information and compliance.

As prayed, copy of the order be given dasti to learned counsel for the parties.

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Dismissed as infructuous.

PRATIBHA RANI, J.

FEBRUARY 12, 2016/‘st’