

\$~29

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

+ CRL.M.C. 5270/2015 & CrI.M.A. 19062/2015

RIYAZUDDIN @ PINTU

..... Petitioner

Through Mr.Sanjay Kumar Visen, Adv.

versus

STATE OF (GOVT OF NCT) DELHI

..... Respondent

Through Mr.G.M. Farooqui, APP with SI Om
Vir Singh, PS Narcotics Branch.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

%

06.01.2016

The present petition has been filed by the petitioner under Section 482 Cr.P.C. for setting aside the order dated 04.12.2015 passed by the Court below whereby the application of the petitioner under Section 311 Cr.P.C. has been dismissed.

The facts, in brief, of the present case are that on 24.07.2012, the petitioner/accused was apprehended while in possession of 275 grams Heroin, a contraband. A case was registered under Section 21/65/85 of the NDPS Act while recording FIR No.200/2012, Police Station Crime Branch, District Crime and Railway, Delhi. The accused was arrested on the same day. After completion of

investigation, charge sheet was filed in the Court and charge under Section 21 of the NDPS Act was framed against the accused on 12.12.2012. During the trial, the prosecution witnesses were examined and after the closure of prosecution evidence, the accused examined the defence witnesses. After conclusion of defence evidence, the defence evidence was closed.

It has been argued by the counsel for the petitioner that the petitioner wishes to examine Smt. Noorjahan as defence witness to prove the use and possession of phone no.9711801221. He also wishes to further cross-examine PW-7 HC Kheta Ram and PW-8 SI Sunil Jain. It is further argued that the above said witnesses are important link for fair and just trial of the case. It is further submitted that the impugned order will lead to miscarriage of justice as during trial, PW8 SI Sunil Jain had admitted the registration of FIR No.49/2014, under Section 7 of the Prevention of Corruption Act which was registered on the complaint of the petitioner-herein who had handed over the micro-SD card to the IO of the case regarding telephonic conversation made by the police officer to demand ransom.

I have heard the learned counsel for the petitioner as well as the

learned Additional Public Prosecutor for the State and have also gone through the material available on record.

The record reveals that the petitioner/accused was given an opportunity to cross-examine the witnesses PW7 and PW8, which was duly availed by him and the witnesses were cross-examined on behalf of the accused. So far as the witness Smt. Noorjahan which the petitioner seeks to examine is concerned, it is apparent from the record that the fact regarding use and possession of phone of Smt. Noorjahan by the petitioner/accused was well within his knowledge at the time of adducing defence evidence by the accused. But the accused did not disclose the said fact and had not examined any witness while examining the defence witnesses.

It is also apparent from the record that the trial of the case before the Trial Court is at the fag end. The charge has already been framed, the prosecution evidence is complete and even the defence evidence has been concluded. The petitioner/accused had also moved another application under Section 91 of the Cr.P.C. to bring on record documents relating to FIR No.49/2014 under Section 7 of the P.C. Act. After moving the said application, the application under Section

311 Cr.P.C. was moved by the petitioner. It appears that the petitioner is playing delaying tactics by moving one application after another and that too at the fag end of the trial.

In view of the aforementioned facts and circumstances, I do not find any ground to invoke the inherent power under Section 482 Cr.P.C. in the present matter.

Consequently, the present petition is dismissed.

Application Crl.M.A. 19062/2015 is accordingly disposed of.

P.S.TEJI, J

JANUARY 06, 2016
dd