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

Judgment dated: 10th January, 2017

+ CRL.M.C. 437/2015 & CRL.M.A.1742/2015

CENTRAL BUREAU OF INVESTIGATION Petitioner

Through: Ms.Rajdipa Behura, SPP for CBI with
Ms.Garima Singh Yadav and
Mr.Philomon Kani, Advs.

versus

HARISH ARORA Respondent

Through: Mr.Raj Kumar Yadav, Adv.

CORAM:

HON'BLE MR. JUSTICE I.S.MEHTA

I.S.MEHTA, J (ORAL)

1. This is a petition under Section 482 Cr.P.C challenging the impugned orders dated 08.09.2014 and 01.11.2014 passed by learned ACMM-2/Central/Delhi and learned Additional Sessions Judge-02, District Central, Tis Hazari Courts, Delhi respectively in case title “CBI versus Harish Arora” R.C. No. 06(A)/1998, CC No. 70/05 dismissing the application filed by CBI under Section 311 Cr.P.C.
2. It is submitted by learned counsel for the petitioner that out of total 47 cited witnesses only three were examined by the prosecution and the right to examine the remaining 44 witnesses has been disallowed by the Court below vide orders dated 08.09.2014 and 01.11.2014 passed by learned ACMM-2/Central/Delhi and learned Additional Sessions Judge-02, District Central, Tis Hazari Courts, Delhi respectively in case title “CBI versus Harish Arora” R.C. No. 06(A)/1998, CC No. 70/05. She has further submitted that to meet the ends of justice, the impugned orders be

set aside and the CBI be allowed to examine the remaining 44 witnesses.

3. Learned counsel for the respondent has vehemently opposed the contention of learned counsel for CBI and submitted that for the past five years the CBI could examine only three witnesses and the remaining witnesses are not relevant and examining those witnesses is a futile exercise which would amount to harassment of the respondents.
4. Admittedly, the petitioner is CBI who has to examine the witnesses. I find no force in the contention of learned counsel for the respondents that the remaining witnesses are not relevant. Since the prosecution witnesses have already been examined under Section 161 Cr.P.C. the prerogative goes to the petitioner to examine the witnesses or not.
5. Resultantly, since 44 witnesses are yet to be examined, the petitioner is at liberty to examine the said witnesses within a period of one year and the Court below to record the statement of witnesses as early as possible as per the Court framework. Consequently, impugned order dated 08.09.2014 and 01.11.2014 are set aside.
6. The present petition is allowed and disposed of accordingly. All pending application(s) (if any) also stand disposed of.
7. Copy of this order be given *dasti*.

I.S. MEHTA
(JUDGE)

JANUARY 10, 2017/radhika