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

+ CRL.M.C. 1102/2017

TARUN KANT BAHRI

..... Petitioner

Through: Ms.Sumita Kapil and Ms.Pooja
Swami, Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr.G.M.Farooqui, APP for State with
ASI Prashandi Lal, P.S. Pandav
Nagar, Delhi.

CORAM:

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

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20.03.2017

Crl.M.A.No.4563/2017 (Exemption)

Exemption granted, subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 1102/2017

This is a petition under Section 482 Cr.P.C. filed on behalf of the petitioner against the order dated 23rd July, 2016 passed by the learned Trial Court whereby the application moved on behalf of the petitioner under Section 311 Cr.P.C. for re-calling PW-1 Nidhi Bhari for cross-examination was dismissed.

Learned counsel for the petitioner submits that the petitioner moved

an application under Section 311 Cr.P.C. before the learned Trial Court for recalling PW-1 Nidhi Bhari for cross-examination as some vital and important questions were to be put to her, however, the Court below without looking into the urgency of the cross-examination on the material point, rejected the application vide the impugned order which is bad in law and prays that the same may be quashed/set aside.

Notice. learned APP for the State accepts notice and has pointed out to the various order-sheets of the learned Trial Court, perusal whereof reveals that the Court below has given sufficient opportunities to the petitioner to cross-examine PW-1 Nidhi Bhari but despite the same the petitioner has failed to cross-examine the said witness. Learned APP further submits that even cost was imposed on the petitioner but still the petitioner did not cross-examine the said witness and the present petition is nothing but an attempt to harass the witness and opposes the present petition.

Heard learned counsel for the parties and perused the record. It is apparent on the face of the record that sufficient opportunities have been given by the Court below to the petitioner to cross-examine PW-1 Nidhi Bhari, but the petitioner has failed to complete the cross-examination of the said witness. In these circumstances, to meet the ends of justice and considering the fact that the witness is a material witness and some vital and important questions are required to be put to her, the prayer made in the present petition is allowed subject to cost of Rs.15,000/- to be paid to PW-1 Nidhi Bhari, with the direction that the petitioner shall complete the cross-examination of PW-1 Nidhi Bhari on the next date fixed before the learned Trial Court and no further opportunity shall be granted to him on any ground. The parties are directed to appear before the Court below on

30th March, 2017 for the said purpose.

The present petition is allowed and stands disposed of in the above terms.

Copy of this order be given *dasti*, as prayed.

I.S.MEHTA, J

MARCH 20, 2017
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