

\$~20

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

+ **CRL.M.C. 1434/2017**

RESHMA

..... Petitioner

Through Ms. Sumita Kapil, Ms. Pooja Swami
and Mr. Akshay Verma, Advs.

versus

THE STATE NCT OF DELHI

..... Respondent

Through: Ms. Neelam Sharma, APP for State
with SI Naresh Kumar, P.S. Kamla
Market.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

%

13.04.2017

Crl. M.A. 5919/2017

Allowed, subject to all just exceptions.

Application is disposed of.

Crl. M.C. 1434/2017

By the order impugned in this petition, trial court has dismissed the application of the petitioner under Section 311 Cr.P.C. seeking recalling of the prosecutrix-PW2 for her cross-examination. Examination-in-chief of PW2 was recorded on 8th April, 2016 but could not be completed, therefore, it was deferred for 11th April, 2016. On 8th April, 2016 counsel for the petitioner was not present in Court. Trial court directed the petitioner to ensure that her counsel appears on 11th April, 2016 for cross-examination.

Examination-in-chief of PW2 was concluded on 11th April, 2016, however, she could not be cross-examined as counsel for the petitioner did not appear even on that day. Accordingly, cross-examination of PW2 was deferred for 17th May, 2016, subject to costs of ₹5,000/-. Even on 17th May, 2017 counsel for the petitioner did not appear in Court, consequently, opportunity of petitioner to cross-examine the PW2 was closed.

Since prosecutrix is the main and important witness, one last opportunity is granted to the petitioner to cross-examine the prosecutrix (PW2), subject to however, costs of ₹25,000/- to be paid to PW2, who has to come from West Bengal. Cost be deposited in advance before the trial court and only thereafter PW2 be summoned for the date, to be fixed by the trial court. It is, however, made clear that in case PW2 is not available at the given address and her presence is not secured for this reason, then her examination-in-chief, as recorded already, will be read and will not be ignored.

Petition is disposed of in the above terms.

A.K. PATHAK, J.

APRIL 13, 2017

ga