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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1517/2017**
UPENDER GUPTA

..... Petitioner

Through: Mr.Sumit Choudhary, Advocate.

versus

THE STATE

..... Respondent

Through: Mr.Raghwinder Varma, APP for State
with PSI Jitender, P.S. Subhash Place,
Delhi.

CORAM:
HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

% **18.04.2017**

Crl.M.A.No.6191/2017 (Exemption)

Exemption granted, subject to all just exceptions.

Application stands disposed of.

CRL.M.C. 1517/2017 and Crl.M.A.No.6192/2017 (stay)

This is a petition under Section 482 Cr.P.C. filed on behalf of the petitioner for setting aside the order dated 29.03.2017 passed by the learned Addl. Sessions Judge, Rohini Courts, Delhi whereby the application under Section 311 Cr.P.C. for recalling of PW-1 Narender Bhalla and PW-3 Santosh Kumar moved on behalf of the petitioner has been dismissed.

At the very outset, learned counsel for the petitioner has very categorically submitted that he does not press the application for recalling of

PW-1, however, he is pressing the application for recalling of PW-3, as he is the material witness. Counsel further submits that on the same date he will conclude the cross-examination of PW-3.

Learned APP for the State opposes the application and has submitted that the petitioner was negligent not to cross-examine the witness on the material point.

In view of the submission made by counsel for the petitioner, prayer for recalling of PW-3 is allowed. The petitioner is directed to appear before the Court below on the next date of hearing fixed before the Court below i.e. 22nd April, 2017. On the said date, the Court below shall issue notice to PW-3 for examination and the petitioner is directed to cross-examine the said witness on the said date and no further opportunity shall be granted to the petitioner thereafter.

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

APRIL 18, 2017

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