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

DECIDED ON : JANUARY 12, 2017

+ **CRL.M.C. 4868/2016**

DALJEET SINGH & ORS. Petitioners
Through Mr. K.K.Jha, Advocate

VERSUS

STATE OF DELHI & ANR. Respondents
Through Mr. Kamal K.Ghei, APP
Mr. Kuljeet Rawal, Advocate for R-2

**CORAM:
HON'BLE MR. JUSTICE S.P.GARG**

S.P.GARG, J. (ORAL)

Crl.M.A.20185/2016

For the reasons mentioned in the application, delay in re-filing the petition is condoned.

Application is allowed and disposed of.

Crl.M.C.4868/2016 & Crl.M.A.20183/2016

1. Present petition under section 482 Cr. PC has been preferred by the petitioner challenging the legality and correctness of an order dated 27.05.2016 of learned Metropolitan Magistrate whereby application under

Section 311 Cr. PC to recall CW1 Mr. Manmohan Singh Bagga was dismissed.

2. I have heard learned counsel for the parties and have examined the file. Admittedly, the petitioner is facing proceeding under Section 138 of Negotiable Instruments Act, since 2000.

3. CW1 Manmohan Singh Bagga was examined for the first time on 22.11.2013. He was partly cross-examined and further examination was deferred. He was again recalled for cross-examination on 19.04.2014 and 09.07.2015. His examination could be completed only on 23.11.2015.

4. On perusal of CW1's comprehensive cross-examination, it reveals that he has been cross-examined at length on various dates. Merely because there is change of petitioner's counsel subsequent to that, it does not give any right to recall the witness for further cross-examination on the ground that the previous counsel did not put certain relevant questions to him in the cross-examination. There will be no end to it. The trial court has placed reliance on the judgment of the Supreme Court in *State (NCT of Delhi) Vs. Shiv Kumar Yadav, (2016) 2 SCC 402*, which is fully applicable to the facts of the present case.

5. I find no merits in the present petition and same is dismissed. Pending application also stands disposed of.

6. Copy of the order be sent to the concerned court for intimation.

(S.P.GARG)
JUDGE

JANUARY 12, 2017
cd