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

+ CRL.M.C. 3144/2017 & CrI. M.A. Nos. 12991-92/2017

LEO ISPAT LTD

..... Petitioner

Through : Mr. Shakeel Sarwar Wani, Adv.

versus

THE STATE NCT OF DELHI & ORS

..... Respondents

Through :Ms. Manjeet Arya, APP with SI  
Tinku Shokeen, P.S. Punjabi Bagh for  
respondent no. 1

None for the respondent no. 2

Counsel for the respondent no. 3  
(attendance slip not given)

**CORAM:**

**HON'BLE MR. JUSTICE A.K. PATHAK**

**ORDER**

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**17.08.2017**

Notice. Learned APP accepts notice for the respondent no. 1.  
Learned counsel for the respondent no. 3 also accepts notice. Respondent  
no. 2 is stated to be under liquidation and is not being represented before the  
trial court by anyone.

Petitioner filed a complaint under Section 200 of the Cr.P.C. before  
the Chief Metropolitan Magistrate, Delhi for prosecuting the respondent nos.  
2 and 3, for the offences under Sections 420/120-B of the IPC. It appears  
that respondent nos. 2 and 3 were summoned after recording the pre-

summoning evidence. Presently, matter is at the pre-charge evidence stage. One witness has already been examined by the complainant. Shri R.K. Saini, Senior Technical Assistant from the Office of Registrar of Companies, Nehru Place, Delhi and Shri Ishtiaq, employee of J & K Bank are yet to be examined. However, petitioner's evidence was closed by the learned Metropolitan Magistrate, Delhi vide order dated 4<sup>th</sup> February, 2017, since neither the petitioner nor its counsel appeared in Court that day, though witnesses were present in Court. In fact, one proxy counsel had appeared on behalf of the petitioner, but was not in a position to examine the said witnesses. Learned counsel submits that he had gone to attend the parent teacher meeting of his child and reached the court in the afternoon but by that time evidence was closed. Petitioner filed an application under Section 311 Cr.P.C. same day, in the afternoon. However, the same was dismissed by the trial court vide order dated 31<sup>st</sup> May, 2017, which is impugned by way of the present petition under Section 482 Cr.P.C.

Keeping in view the contentions of the learned counsel for the petitioner and the fact that application under Section 311 Cr.P.C. was filed on the same day, in the interest of justice, one last opportunity is granted to the petitioner to conclude the pre-charge evidence by summoning and

examining the above mentioned two witnesses, subject to, however, costs of ₹30,000/- to be paid to respondent no. 3 by the petitioner. Petitioner shall be at liberty to take steps to summon the witnesses for the date to be fixed by the learned trial court for the petitioner's remaining pre-charge evidence.

Petition is disposed of in the above terms. Miscellaneous applications are disposed of as infructuous. Dasti.

**A.K. PATHAK, J.**

**AUGUST 17, 2017**

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