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

+ **CRL.M.C. 3652/2017**

PRADEEP

..... Petitioner

Through Mr. Anirudh K. Mudgal, Adv

versus

STATE

..... Respondent

Through Mr. Amit Gupta, APP for State
SI. Amit Kumar, PS Ambedkar Ngr.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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26.10.2017

PW-12 Mr. Lekh Raj was examined on 28th May, 2014 and 3rd March, 2015. Opportunity was afforded to petitioner to cross examine PW-12 Lekh Raj, inasmuch as, he was cross examined by the petitioner's counsel on 3rd March, 2015. After 2 years petitioner filed an application for recalling the PW-12 for his further cross examination on the ground that he was not effectively cross-examined. Application was filed after new counsel was engaged.

The application has been dismissed by the Trial Court vide a reasoned order dated 29th August, 2017. Trial Court has noted that sufficient opportunities were given to learned counsel for the petitioner to cross examine PW-12. Change of counsel is not a ground to recall a witness, that too, after more than two years of his examination was concluded.

I find no perversity in the order so as to interfere with the impugned order, in exercise of inherent jurisdiction of this Court under Section 482 Code of Criminal Procedure, 1973. PW-12 was cross examined at length. He could not have been recalled after two years only on the ground that he was not effectively cross-examined by the earlier counsel. A witness cannot be recalled only to fill up the lacunae.

Petition is dismissed.

Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J

OCTOBER 26, 2017

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