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

+ CRL.M.C. 4401/2017, CRL MA 17636/2017 (stay)

BEI CONFLUENCE COMMUNICATION LTD Petitioner

Through Mr. M K Sethi, Adv

versus

STATE OF NCT OF DELHI & ANR Respondents

Through Mr. M S Oberoi, APP for State

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **31.10.2017**

Crl. M.A. 17637/2017

Allowed, subject to all just exceptions.

Application is disposed of.

CRL.M.C. 4401/2017

Vide order dated 16th August, 2017 defence evidence was closed by the trial court on the ground that witnesses were not produced despite various opportunities. A perusal of order dated 16th August, 2017 reveals that accused no.2 had sought exemption from her personal appearance on the ground that she was a senior citizen suffering from old age ailments, thus, was unable to attend the court. Medical documents were filed along with the application in support of this plea. Learned trial court exempted accused no.2 from personal appearance since it found the ground taken in the application to be genuine. However, defence evidence was closed.

Respondent no.2 preferred revision petition against the order dated

16th August, 2017, which has been allowed by the learned Aditonal Sessions Judge. Revisional Court has set aside the order dated 16th August, 2017, subject to cost of ₹5,000/- and has given one opportunity to respondent nos.2 and 3 to lead evidence. Vide order dated 4th September, 2017 it has been made clear that no further adjournment shall be granted to accused by the trial court.

Complainant is aggrieved by this order and has filed this petition under Section 482 Cr.P.C. It is alleged that petitioner/ complainant was not heard before passing of the order by the Revisional Court.

Revisional Court has only granted one opportunity to accused to lead defence evidence that too, subject to cost. I do not find the view taken by the trial court to be perverse, so as to interfere with the impugned order, in exercise of inherent jurisdiction of this Court under Section 482 Code of Criminal Procedure, 1973. Respondent no.2 was unwell and was granted exemption from personal appearance. There is every probability that for this reason he was not able to produce the witnesses.

Petition is dismissed.

Miscellaneous application is disposed of as infructuous. Dasti.

A.K. PATHAK, J

OCTOBER 31, 2017

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