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

+ CRL.M.C. 4866/2017, CRL MA No. 19349/2017

KRISHAN RANA

..... Petitioner

Through Mr. Saurabh Tyagi, Advocate

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through Dr. M P S ingh, APP for State
SI Sunil Kumar, PS S P Badli

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **23.11.2017**

Petitioner has filed the present petition under section 482 CrPC for recalling three PWs, namely PW-1, PW-2 and PW-3. Examination-in-chief of these three witnesses was conducted in the year 2015. Opportunity was granted to the petitioner to cross examine these witnesses, but the same was not availed. Subsequently, petitioner filed an application under Section 311 CrPC for cross examination of these witness which was dismissed by the learned trial court vide its order dated 1st September, 2017.

In my considered view, trial court has committed an error in dismissing the application of the petitioner. A perusal of order dated 5th May, 2014 shows that PW-1 and PW-2 were examined but could not be cross examined on the said date, since, accused was present in

person but he was not represented by any counsel. The court also did not appoint any Amicus Curie for him (accused/petitioner).

Keeping in view the totality of facts and circumstances, as detailed hereinabove, impugned order is set aside and it is ordered that PW1, PW2 and PW3 may be recalled for their cross examination by learned counsel for the petitioner. Only one opportunity is granted to the petitioner to cross examine these witnesses on the date to be fixed by the trial court.

Petition is disposed of in the above terms. Miscellaneous application is disposed of as infructuous. *Dasti*.

A.K. PATHAK, J

NOVEMBER 23, 2017

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