

\$~74

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 5221/2017
NAVEEN MALHOTRA Petitioner
Through: Mr. Chetan Lokur and Ms. Kohika
Gaur, Advs.
versus

THE STATE & ANR. Respondents
Through: Mr. M.S. Oberoi, APP for State.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK
ORDER
% **12.12.2017**

Vide order dated 28th July, 2017, learned Metropolitan Magistrate has ordered for issuance of NBWs against the petitioner. It is noted in the said order that petitioner has never appeared before the court since 4th July, 2016. Learned counsel for the petitioner submits that this observation is contrary to the records as petitioner did appear along with his counsel on 7th December, 2016. A copy of the order sheet dated 7th December, 2016 has been annexed with this petition.

By this petition under Section 482 Cr.P.C., it is prayed that order dated 28th July, 2017 be set aside.

It is noted here that learned Metropolitan Magistrate has power to recall the NBWs. That apart, the petitioner had filed a criminal revision

petition before the District & Sessions Judge against the impugned order, which has been withdrawn by the petitioner on 6th December, 2017. Before the learned District & Sessions Judge learned counsel for the petitioner stated that petitioner will appear before the trial court on 13th December, 2017 and thereafter on all dates as fixed by the court. Accordingly, petitioner was granted opportunity to move an appropriate application before the learned trial court. Accordingly, I am not inclined to entertain present petition under Section 482 Cr.P.C. However, it is observed that in case any such application is filed before the learned trial court the same shall be considered sympathetically.

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

Dasti.

A.K. PATHAK, J.

DECEMBER 12, 2017

ga