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

DECIDED ON : MAY 04, 2017

+ **CRL.M.C. 451/2016 & CrI.M.A.1891/2016**

PARTH CHAUDHARY & ANR. Petitioners

Through : Mr.S.N.Bhardwaj, Advocate.

versus

STATE GOVT OF NCT OF DELHI Respondent

Through : Ms.Manjeet Arya, APP.

**CORAM:
HON'BLE MR. JUSTICE S.P.GARG**

S.P.GARG, J. (ORAL)

CrI.M.A.1892/2016

1. For the reasons mentioned in the application, the delay in filing the petition is condoned.
2. The application stands disposed of.

CRL.M.C. 451/2016 & CrI.M.A.1891/2016

3. Present petition under Section 482 Cr.P.C. has been preferred by the petitioners for quashing of FIR No.84/2010 registered under Sections 186/353/332/34 IPC at Police Station Inder Puri. Prayer has also been made to set aside order dated 18.8.2015 of learned Metropolitan Magistrate. Status report is on record.

4. I have heard the learned counsel for the parties and have examined the file. During the course of arguments, learned counsel for the petitioners, on instructions, opted to give up relief regarding quashing of the FIR on merits.

5. Trial Court record reveals that the defence witnesses have been examined before recording of the statements of the accused persons under Section 313 Cr.P.C. By an order dated 7.4.2015, the case was adjourned for recording statements of the accused persons on 18.8.2015. On 18.8.2015, instead of recording statement of the accused persons under Section 313 Cr.P.C., the learned Trial Court proceeded to record the statement of the defence witnesses DW-1 (Ramji Lal) and DW-2 (Raju). Apparently, there is a lapse on the part of the Trial Court to examine the defence witnesses without examining the accused persons under Section 313 Cr.P.C. The order dated 18.8.2015 thus cannot be sustained and is set aside.

6. The Trial Court shall first record the statements of the accused persons under Section 313 Cr.P.C. and shall examine the defence witnesses (if any) thereafter.

7. The petition stands disposed of in the above terms. All pending application(s) also stand dispose of.

8. Trial Court record be sent back forthwith along with the copy of the order.

(S.P.GARG)
JUDGE

MAY 04, 2017/sa