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

+ **CRL.M.C. 535/2018**

M V CLOTHING

..... Petitioner

Through: Ms. Vandana Sharma, Advocate

versus

ATLAS LOGISTICS PVT LTD & ANR

..... Respondents

Through: Mr. Siddharth Nanwal, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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06.09.2018

The petitioner is accused in criminal complaint case (CC No.36178/16) instituted by the first respondent. By order dated 23.11.2017 of the Metropolitan Magistrate, the right to lead defence evidence was closed. The petitioner had challenged the said order in the court of Sessions by Criminal Revision No.532/2017, which was, however, dismissed by order dated 20.01.2018. Thus, the petitioner is before this court by way of petition under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) assailing both the said orders.

The learned counsel for the petitioner conceded that there have been defaults on the part of the petitioner in leading evidence in defence. She also concedes that on this count costs were also imposed by the Metropolitan Magistrate, which have also not been paid till date. She, however, submitted that she is ready to pay further costs, including the costs imposed by the orders which are impugned here and undertakes that only one opportunity would be sought for defence evidence to be adduced further clarifying that

the petitioner shall produce the witness in defence of its own without requiring assistance of the trial court to have him summoned.

The learned counsel for the respondent (complainant) submitted his consent to the prayer being granted, subject to the above mentioned undertaking being taken on board and the petitioner being bound with the same.

On costs of Rs.20,000/-, which would be over and above and in addition to the costs already imposed by the trial court and the revisional court by the previous orders, one last opportunity is granted to the petitioner to lead defence evidence. The costs shall be paid within four weeks hereof.

The Metropolitan Magistrate, upon proof being shown of the payment of costs, shall fix an appropriate date on which the petitioner will be obliged to produce the defence witness of its own and examine him/her without seeking any adjournment.

It is made clear that in case of non-payment of costs within the time granted or non-production of the defence witness, as mentioned above, the right to defence evidence would stand exhausted. No further prayer for enlargement of time or adjournment at the instance of the petitioner will be entertained.

The petition stands disposed of with these observations.

R.K.GAUBA, J.

SEPTEMBER 06, 2018

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