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

+ CRL.M.C. 721/2017, CRL.M.A. Nos. 3046/2017 & CRL.M.A. 6706/2017

POONAM PASSI Petitioner
Through Mr. Gurmit Singh Hans and Mr. Vishal Soni, Advs.

Versus

RAJIV KHANNA Respondent
Through Mr. Krishan Kumar and Mr. Sahil Dhawan, Advs.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **01.02.2018**

Petitioner has assailed the order dated 19th November, 2016 passed by the learned Metropolitan Magistrate, Delhi, whereby application under Section 311 Cr.P.C. of the petitioner has been dismissed. Learned Metropolitan Magistrate has held that in case DW1 is permitted to be recalled, it will amount to review of the order dated 11th August, 2016 whereby opportunity of petitioner to cross-examine the DW1 was closed. DW1 is a material witness. In case he is not examined, petitioner will obviously be prejudiced. DW1 is very much

available and his presence can be secured. As regards delay is concerned, respondent can be compensated in terms of costs. Accordingly, impugned order is set aside. Application under Section 311 Cr.P.C. is allowed and DW1 is recalled for his cross-examination, subject to costs of ₹10,000/- to be paid by the petitioner to the respondent.

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

A.K. PATHAK, J.

FEBRUARY 01, 2018

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