

\$~3

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

%

Judgment delivered on: 14.05.2018

+ **CRL.M.C. 1547/2018**

**SURESH KUMAR SHARMA**

..... Petitioners

versus

**STATE OF NCT DELHI**

..... Respondent

**Advocates who appeared in this case:**

For the Petitioner : Mr. T.N.Saxena and Mr H.C.Kharbanda

For the Respondent : Mr. Arun Kumar Sharma, APP.  
SI Abhijit Kumar, PS Civil Lines.

**CORAM:-**

**HON'BLE MR JUSTICE SANJEEV SACHDEVA**

**JUDGMENT**

**14.05.2018**

**SANJEEV SACHDEVA, J. (ORAL)**

**CRL.M.C. 1547/2018 & CrI.M.A.5616/2018(direction)**

1. The petitioner impugns order dated 23.08.2017, whereby application of the petitioner under section 311 of the Code of Criminal Procedure (Cr.P.C.) seeking to recall of PW – 3 was declined though it was allowed qua PW – 2 & 4.

2. Right to cross-examine said witness was closed on 24.11.2016 as the petitioner did not avail of the said opportunity.

3. It is pointed out by the learned counsel for the petitioner that the

right to cross-examine was closed qua PW-2, PW-3 and PW-4, however, by the said application under Section 311 Cr.P.C., opportunity was granted to the petitioner to cross-examine PW-2 & PW-4 as the Court has noticed that the petitioner accused was not represented by counsel.

4. Learned counsel for the petitioner points out that insofar as PW-3 is concerned, though the order-sheet records the presence of the counsel on 24.11.2016 when the right was closed, however on the very same date, counsel was freshly engaged and Vakalatnama was filed, which is evidenced from the order itself.

5. It is submitted that PW-2 has been cross-examined and PW-4 is scheduled to be cross-examined on 18.05.2018. He prays that one opportunity be granted subject to terms.

6. Keeping in view the facts and circumstances of the case, one opportunity is granted to the petitioner, subject to payment of costs of Rs.7,500/- to be paid to the *Delhi High Court Advocates Welfare Trust* within a period of two weeks from today. On 18.05.2018, the Trial Court shall fix an appropriate date for cross examination of PW – 3.

7. The Petition is disposed of in the above terms.

8. Order Dasti under signatures of the Court Master.

**MAY 14, 2018/१४**

**SANJEEV SACHDEVA, J**