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

+ CRL.M.C. 5704/2018 and Crl. M.A. no. 35984/2018

RAJESH KUNAL KESARI Petitioner
Through Mr. Ajay Kumar Porwal, Adv.

versus

STATE Respondent
Through Dr. M.P. Singh, APP with SI Amit
Dutt, P.S. Lajpat Nagar, Delhi

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

ORDER
% **14.11.2018**

PW1 was cross-examined by the petitioner at length on two dates, that is, on 4th February, 2009 and 19th April, 2016. Thereafter, petitioner filed an application under Section 311 Cr.P.C. for recalling PW1, for his further cross-examination. Trial court dismissed this application. Revision has also been dismissed by the Learned Additional Sessions Judge.

It is noted that Revision Petition against the order passed on the application under Section 311 Cr.P.C. is not maintainable. Therefore, present petition under Section 482 Cr.P.C. is treated against the order passed by the trial court.

Learned counsel for the petitioner submits that petitioner cannot

sign in Hindi. It is submitted that PW1 has to be confronted on this aspect.

A perusal of cross-examination of PW1 shows that specific questions were put to PW1 with regard to her signatures in Hindi. PW1 has specifically stated that she can sign in Hindi as well as in English. She also stated that if document was in Hindi, she would sign in Hindi and if document was in English, she would to sign in English. No specific question was put to PW1 that she was not conversant with Hindi.

First of all, I am of the view that PW1 cannot be called on the points on which she has already been cross-examined. Witness, however, cannot be called by the petitioner to fill up the lacuna. Application appears to have been filed to only drag on the trial.

Learned counsel for the petitioner has placed reliance on Shiv Kumar Yadav vs. State, 219 (2015) Delhi Law Times, 76. I have perused the judgment and find it to be in the context of different facts. Trial court has rightly concluded that no ground was made out to recall PW1.

Petition is dismissed with costs of `10,000/- to be deposited with Delhi High Court Bar Association Lawyers' Social Security & Welfare Fund, New Delhi. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

NOVEMBER 14, 2018/r.bararia