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

\+ CRL.M.C. 4674/2018 and Crl. M.A. nos. 32058-59/2018

RAJPAL & ANR. ..... Petitioners
Through Mr. Madhu Mukul Tripathi, Adv.

versus

GOVT. OF N.C.T. OF DELHI ..... Respondent
Through Mr. Manjeet Singh Oberoi, APP with SI C.B. Sharma and ASI Suresh Kumar, P.S. New Usman Pur

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

O R D E R

% 14.09.2018

Petitioners filed an application under Section 311 Cr.P.C. before the trial court for recalling of PW1 Karan Singh and PW2 Prakash Chand for their further cross-examination. This application has been dismissed by the trial court, vide order dated 16th July, 2018, which has been impugned by this petition under Section 482 Cr.P.C. Trial court has dismissed this application on the ground that same was filed after seven years from the date when examination and cross-examination of these witnesses stood concluded. Trial court has noted that cross-examination of PW1 Karan Singh was concluded on 21st February, 2011; whereas cross-examination of

PW2 Prakash Chand in the month of 2011. Learned counsel for the petitioners submits that application under Section 216 Cr.P.C. was disposed of vide order dated 3rd May, 2016. Additional charges were framed by the trial court, vide order dated 14th May, 2016 whereby it was held that additional charges under Sections 397/34 IPC were liable to be framed against the petitioners. Order dated 14th May, 2016 has been placed on record. Accordingly, I am of the view that the right accrued in favour of the petitioners to cross-examine PW1 Karan Singh and PW2 Prakash Chand after framing of the additional charge. Accordingly, impugned order is set aside. Trial court is directed to recall PW1 Karan Singh and PW2 Prakash Chand for their further cross-examination but confined to the additional charge.

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

A.K. PATHAK, J.

SEPTEMBER 14, 2018
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