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

+ CRL.M.C. 4733/2018 and Crl. M.A. nos. 32259-60/2018

NAVRATAN

..... Petitioner

Through Mr. Viraj Dattar, Mr. G.Tushar Rao
and Mr. Kunal Kalra, Advs.

versus

STATE

..... Respondent

Through Ms. Aashaa Tiwari, APP with W/SI
Meenakshi, P.S. Jama Masjid

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **17.09.2018**

Learned counsel for the petitioner submits that petitioner intended to examine Dr. R.K. Sharma in his defence evidence. His name was given in the list of witnesses. Dr. R.K. Sharma is suffering from cancer of pharynx. Matter was listed on 14th August, 2018 and Dr. R.K. Sharma on account of his ill health showed his inability to appear in the matter. Petitioner sought time to examine other doctor in place of Dr. R.K. Sharma. Matter was adjourned to 25th August, 2018. Since petitioner could not arrange any other doctor by 25th August, 2018 to appear as his defence witness, trial court closed defence evidence. Petitioner filed an application under Section 311 Cr.P.C. to examine Dr. L.C. Gupta of Aruna Asaf Ali Hospital as defence

witness. This application has been dismissed by the impugned order.

Keeping in view that doctor R.K.Sharma whom petitioner intended to examine, showed his inability to appear in Court on account of his ill health, petitioner cannot be blamed for not producing the doctor in his defence evidence on 14th August, 2018. Next date given was too short to produce any other doctor.

For the foregoing reasons, I am of the view that the interest of justice demands that petitioner is granted one opportunity to examine Dr. L.C. Gupta in his defence. Impugned order is set aside. One opportunity shall be granted by the trial court to petitioner to examine Dr. L.C. Gupta. Trial Court shall fix a date for this purpose and summon Dr. L.C. Gupta for the date fixed by it.

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

A.K. PATHAK, J.

SEPTEMBER 17, 2018

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