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

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Judgment delivered on: 31.10.2018

+ CRL.REV.P. 954/2018

ATUL KUMAR TOMAR

..... Petitioner

versus

STATE OF NCT OF DELHI & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Ashish Kumar Singh, Advocate.

For the Respondents : Mr. Hirein Sharma, APP for the State.
SI Amolak, PS Najafgarh.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

31.10.2018

SANJEEV SACHDEVA, J. (ORAL)

Crl.M.A.35381/2018 (exemption)

Exemption is allowed subject to all just exceptions.

CRL.REV.P. 954/2018 & Crl.M.A.35382/2018 (stay)

1. Petitioner is aggrieved by order dated 12.09.2018, whereby, the Trial Court, while recording the evidence of PW2 – Ghanshyam Mishra, has recorded that cross was not conducted by the counsel for the accused despite an opportunity being given.

2. Learned counsel for the petitioner submits that the counsel for the petitioner/accused was in the High Court arguing an appeal arising out of the same FIR, impugning the framing of charge.

3. Learned counsel for the petitioner submits that he had sent his associate to request for a pass over or an adjournment, however, the same was not granted and the Court had noted that there was no cross conducted despite an opportunity being given.

4. Learned counsel for the petitioner submits that the said witness is a material witness as the petitioner has been charged with an offence under Section 495 IPC.

5. Learned counsel for the petitioner prays that an opportunity to be granted to the petitioner to conduct cross-examination of PW2 – Ghanshyam Mishra. He undertakes that cross-examination will be concluded in one day.

6. Keeping in view of the facts and circumstances of the case and on perusal of the record, I am of the view that the petitioner ought to be granted one more opportunity to cross-examine PW2 – Ghanshyam Mishra.

7. It is informed that the matter is still at the stage of prosecution evidence and the matter is fixed before the Trial Court on 28.11.2018 for examining the witnesses.

8. In view of the above, the petition is allowed. Petitioner is

granted one more opportunity to cross-examine PW2 – Ghanshyam Mishra. The petitioner is bound down by his statement that he shall conclude his cross in one day.

9. List the matter before the Trial Court on 13.11.2018 for issuing appropriate directions for summoning PW2 – Ghanshyam Mishra for 28.11.2018.

10. The petition is disposed of in the above terms.

11. Order Dasti under the signatures of the Court Master.

OCTOBER 31, 2018
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SANJEEV SACHDEVA, J