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

+ CRL.M.C. 563/2018

SUSHILA

..... Petitioner

Through: Mr. Amit Kumar Singh, Adv.
versus

MUKESH MEENA

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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19.03.2018

Respondent filed a complaint under Section 138 of the Negotiable Instruments Act, 1881, which is pending trial. During the trial, an application was filed for recalling CW1 Mukesh Meena for further cross-examination, which has been dismissed by the trial court vide order 7th November, 2016. Petitioner filed a revision petition which has also been dismissed vide order dated 23rd August, 2017, which is impugned in this petition. Trial court has noted that CW1 Mukesh Meena was examined and discharged. Only after the new counsel was engaged an application was filed for further cross-examination on the ground that earlier counsel had not properly conducted the cross-examination. Trial court has also noted that recalling of witness for cross-examination on this ground is not a good ground. The provisions of Section 311 Cr.P.C. cannot be invoked merely on

the ground of change of counsel. I do not find any perversity in the view taken by the trial court. Cross-examination of CW1 Mukesh Meena, which is on record, shows that due opportunity was granted to the counsel for cross-examining CW1 which, in fact, was availed. CW1 was examined, cross-examined and discharged on 26th June, 2014. No cogent ground was given in the application under Section 311 Cr.P.C. (Annexure P-5). Only vague plea was taken that earlier counsel did not conduct the cross-examination in a professional manner while cross-examining the CW1 and did not ask the real question and only basic and formal questions were asked.

In the above facts, I am of the view that no interference is required in the impugned order by this Court in its power under Section 482 Cr.P.C. Petition is dismissed. Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.

MARCH 19, 2018

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