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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 5348/2017

SANTOSH KUMAR

..... Petitioner

Through

Mr. S.S. Bagga, Advocate.

versus

THE STATE GOVT OF NCT OF DELHI

..... Respondent

Through

Mr. Amit Ahlawat, APP for State.

Mr. Mamtesh Sharma, Advocate for
respondent No.2.

ASI Rajender Singh, PS Ali Pur.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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04.01.2018

Crl.M.A. 20928/2017 (exemption)

Exemption is allowed subject to all just exceptions.

CRL.M.C. 5348/2017 & Crl.M.A. 20927/2017 (stay)

1. The petitioner impugns order dated 09.11.2017, whereby, the application of the petitioner under Section 311 Cr.P.C. for recall of witnesses (i) Smt. Neetu and (ii) Chandan Raja, parents of the victim, was declined and the defence evidence was closed because the petitioner failed to produce the witnesses despite two opportunities.

2. After some arguments, learned counsel for the petitioner submits that he would not press the petition insofar as it relates to the rejection of the application under Section 311 Cr.P.C. However, he submits that one opportunity be granted to the petitioner to adduce defence evidence. It is submitted that the petitioner failed to adduce

defence evidence because of the application under Section 311 Cr.P.C. which had been moved.

3. Learned Additional Public Prosecutor opposes the petition and contends that the petitioner is only seeking to delay the progress of the trial.

4. In view of the above and, keeping in view the fact that the petitioner is in judicial custody and it would not be in his interest to delay the trial, it would be in the interest of justice and also expedient to grant one opportunity to the petitioner to lead defence evidence.

5. Accordingly, the order dated 09.11.2017, insofar as it closes the right of the petitioner to lead evidence, is recalled. The petitioner/accused is given an opportunity to lead defence evidence.

6. It is informed that the case is listed before the Trial Court on 16.01.2018.

7. It is clarified that the petitioner shall not seek any undue adjournments whenever date is fixed for examination of the petitioner's/defence witnesses.

8. The petition is, accordingly, allowed in the above terms.

9. Order *Dasti* under the signatures of the Court Master.

JANUARY 04, 2018/st

SANJEEV SACHDEVA, J