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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 64/2019**
ASHOK Petitioner

Through: Mr. Sanjeev Kumar, Advocate

versus

STATE Respondent

Through: Mr. Kamal Kumar Ghai, APP
with ASI Sunita, PS:Harsh
Vihar, Delhi

CORAM:
HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **10.01.2019**

CRL.M.A. 331/2019

Allowed, subject to all just exceptions. The application is disposed of.

CRL.M.C. 64/2019 & CRL.M.A. 330/2019

1. Issue notice. Notice is accepted by the learned APP on behalf of the State.
2. This petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (Cr. PC) for quashing/setting aside the orders dated 27.10.2018 and 4.9.2018 passed by the learned Additional Sessions Judge, District Shahdara, Karkardooma Courts, Delhi, dismissing the application under Section 311 of the Cr. PC for recalling the prosecutrix for cross-examination.

3. Learned counsel for the petitioner submitted that the petitioner may be given a chance to cross-examine the prosecutrix. Learned counsel for the petitioner further submitted that the petitioner shall not ask for any adjournment, whatsoever, for the cross-examination of the prosecutrix and in case the petitioner is not allowed to cross-examine the prosecutrix, complete facts would not come before the Court for the purposes of adjudication and deciding the matter which may adversely effect the life and liberty of the petitioner. Learned counsel for the petitioner also submitted that the petitioner undertakes that the cross-examination will be completed on the same day.

4. Learned APP, though opposed the above submissions of the learned counsel for the petitioner, submitted that just to cut short the delay and in the interest of justice, one opportunity may be granted to the petitioner to cross-examine the prosecutrix on the date so fixed by the Trial Court subject to heavy costs.

5. Accordingly, in the interest of justice, the impugned orders dated 27.10.2018 and 4.9.2018 are set aside and the petitioner is granted only one opportunity to cross-examine the prosecutrix, on the date so fixed by the Trial Court subject to deposit of Rs.10,000/- in Delhi Police Martyrs' Fund, Account No.18200110036907, UCO Bank, IFSC Code:UCBA0001820 within ten days and a receipt of the said deposit be filed before

the Trial Court within three weeks and a copy of the said receipt shall also be handed over to the APP through the I.O. within 3 weeks. In case the petitioner fails to deposit the said sum, the prosecution shall be entitled to move an application for passing appropriate orders. It is clarified that only one opportunity is granted for the cross-examination of the prosecutrix and no adjournment would be granted to the petitioner to cross-examine the prosecutrix on any ground, whatsoever and the cross-examination will be completed on the same date as undertaken by the learned counsel for the petitioner. It is also clarified that no irrelevant question would be asked during the cross-examination of the prosecutrix by the petitioner.

6. The petition is disposed of in the above terms. Pending application is also disposed of. It is clarified that this order shall not be treated as a precedent for the purpose of other cases, if any.

CHANDER SHEKHAR, J

JANUARY 10, 2019

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