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

\+ CRL.M.C. 5042/2019

PREM NARAIN SHARMA ..... Petitioner

Through: Mr. Yogesh Verma & Mr. Bhartosh Sharma, Advocates

versus

CENTRAL BUREAU OF INVESTIGATION..... Respondent

Through: Mr. Anupam S. Sharma, SPP with Mr. Prakash Airan, Advocate

CORAM:
HON'BLE MR. JUSTICE CHANDER SHEKHAR

O R D E R

% 01.10.2019

CRL.M.A.37458/2019 (for exemption)

Allowed, subject to all just exceptions. Application stands disposed of.

CRL.M.C.5042/2019 & CRL.M.A.37457/2019

1. Issue notice. Notice is accepted by the learned SPP.

2. This is a petition under Section 482 of the Code of Criminal Procedure, 1973 (Cr. PC) for quashing the impugned order dated 21.8.2019 passed by the learned Special Judge (PC Act), whereby defence evidence of the petitioner was closed and the matter was fixed for final arguments for 4.10.2019.

3. Learned counsel for the petitioner submitted that the impugned order dated 21.8.2019 is contrary to the facts and is illegal and arbitrary.

4. Learned APP submitted that the petitioner is in the habit of filing frivolous petitions before this Court. Earlier also, the petitioner had filed a petition, being Crl.M.C.4569/2017 for quashing of the FIR, which was disposed of vide order dated 21.1.2019, with a direction to the petitioner to raise all such pleas before the Trial Court, which were ordered to be considered at the time of hearing of final arguments. Thereafter, the petitioner filed another petition, being Crl.M.C. 823/2019, under Section 482 of the Cr. PC, for quashing order dated 2.2.2019 and vide order dated 13.2.2019, the petitioner was granted an opportunity to cross-examine PW-50, 56 and 66, who were examined earlier also, subject to cost of Rs.40,000/-.

5. Learned counsel for the petitioner submitted that he could not examine the petitioner on the date fixed since he had to summon the other two witnesses who were very important and relevant. The petitioner had revealed the purpose as to why and how these persons are important and relevant to be examined as defence witnesses. Had the petitioner got recorded his defence evidence before recording the deposition of the these two witnesses, his defence would have been prejudiced. For that reason, the petitioner prayed to the Trial Court to defer the recording his deposition, but the Trial Court, instead of deferring, closed the defence of the petitioner.

6. I have gone through the order dated 21.8.2019,which reads as under:

> "Heard on applications filed by Sh. Bhavtosh

> Sharma, Advocate with request for exemption of personal appearance of accused persons namely Ramesh Chandra (A-4), Arun Aggarwal (A-7) and Subhash Chand (A-8).
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> It is submitted by Ld. Counsel that accused Ramesh Chandra (A-4) is bed ridden due to bilateral brain stroke, thus not in a position to come to court. Accused Subhash Chand (A-8) is stated to be suffering with loose motion and fever while accused Arun Aggarwal(A-7) is told to have gone to High Court of Delhi to attend a matter. Considering aforesaid facts, personal appearance of all of aforementioned accused persons i.e. Ramesh Chandra (A-4), Arun Aggarwal (A-7) and Subhash Chand (A-8) is exempted for today only, through their counsel, who is present.
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> Today was for recording statement of accused P.N. Sharma (A-6) U/s 315 Cr. PC. Accused refused to depose today stating that he has filed a revision petition before High Court of Delhi which is pending for 29.11.2019. He will depose only after knowing outcome of that petition. Admittedly, there is no stay of proceedings in this case by High Court of Delhi. Whatever may be fate of that petition, there appears no reason to presume that accused Prem Narain Sharma (A-6) will be prejudiced by examining today. No reason, request to adjourn deposition of said accused, is thus declined. Accused Prem Narain Sharma (A-6) still refused to depose in his defence. DE on his behalf stands closed."

7. I do not find any force in the contention of the learned counsel for the petitioner that had the petitioner got recorded his deposition before recording of the deposition of the two witnesses in his defence, his defence would have been

prejudiced in any manner. It is a fact that under Section 313 of the Cr. PC, the accused has a duty to furnish explanation in his statement regarding the incriminating material that has been produced against him and to explain any circumstances appearing in the evidence against him and Section 313 Cr. PC also permits the petitioner to furnish his own version with regard to his involvement and to put forward his defence. The purpose of examining the accused under Section 313 Cr.PC is to meet the requirement of the principles of natural justice and is to give an opportunity to him to explain the circumstances appearing against him as well as to put forward his defence. There is no dispute that the petitioner has already been examined in this matter by the Court under Section 313 Cr. PC, after the evidence of the prosecution, giving him an opportunity to explain the circumstances appearing against him and to put forward his defence, which means that the petitioner has already explained the circumstances appearing against him and has put forward his defence in the statement under Section 313 Cr. PC. In these circumstances, when the petitioner has already explained the circumstances appearing against him as well as put forward his defence during his examination under Section 313 Cr. PC, it cannot be said, by any stretch of imagination, that any prejudice would have been caused to the petitioner, had he examined himself earlier than the deposition of the two witnesses in his defence.

8. In view of the aforesaid discussions, the previous conduct, his recalcitrant attitude, the alleged cause for deferring the recording of his deposition and his statement before the Trial Court that he has filed a revision petition before the Trial Court, which is listed for 29.11.2019 and he will depose only after the outcome of that petition, when there is no stay of proceedings, was/is not a sufficient cause for adjournment and/or to defer the examination of the petitioner before the Trial Court.

9. The Trial Court exercised its power properly in accordance with law and accordingly, closed the defence of the petitioner. I do not find any flaw or infirmity in the impugned order dated 21.8.2019 of the Trial Court.

10. The petition is accordingly dismissed. Pending application is also dismissed.

CHANDER SHEKHAR, J

OCTOBER 01, 2019
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