

\$~57

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

+ CRL.M.C. 5426/2019 & Crl.M.A.38846/2019

HEMANT @ HAPPY Petitioner

Through Mr. Sunil Kumar, Adv.

versus

STATE

..... Respondent

Through APP (name not given) with SI
Kiran Pal

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **22.10.2019**

CRL.M.A. 38846/2019 (for exemption)

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

CRL.M.C. 5426/2019

1. Issue notice.
2. Notice is accepted by the learned APP for the State.
3. The present petition has been filed by the petitioner for setting aside the order dated 19.8.2019 passed by Additional Sessions Judge-04 (Shahdara), Karkardooma Courts, Delhi whereby the application under Section 311 of the Code of Criminal Procedure, 1973 (Cr.P.C.) filed by the petitioner for recalling the witnesses PW-1 Ranjeet and PW-2 Addu Yadav for further cross-examination was dismissed.
4. Learned counsel for the petitioner submitted that he has mentioned the questions in paras 8 and 9 of the petition which he wants to ask from the witnesses PW-1 Ranjeet and PW-2 Addu Yadav, respectively, in their cross-examination and is ready to pay the costs if further cross-examinations of the PW-1 and PW-2 are

allowed.

5. Learned counsel for the petitioner further undertakes that apart from the questions mentioned in paras 8 and 9 of the petition, he shall not ask any other questions from the aforesaid witnesses and shall conclude their cross-examination if allowed, on one date itself.

6. Learned APP though opposed the prayer made by the learned counsel for the petitioner, however, submitted that just to cut short the delay and not to linger on the proceedings, he has no objection if the petition is allowed subject to heavy costs.

7. In view of the aforesaid submissions, the petition is allowed and the impugned order dated 19.8.2019 is set aside subject to costs of Rs.25,000/- upon the petitioner with a direction that the PW-1 Ranjeet and PW-2 Addu Yadav shall be recalled by the prosecution for their cross-examination on 3.12.2019 and the petitioner shall cross-examine the aforesaid witnesses and ask them the questions mentioned in paras 8 and 9 of the present petition subject to the relevancy of these questions, to be decided by the Trial Court and shall conclude their cross-examination on the same day.

8. It is clarified that no adjournment shall be granted to the petitioner for the said purpose on any ground whatsoever. In case any adjournment is sought for the said purpose, the Trial Court would be within its right to close the cross-examination of the witnesses.

9. Petition is disposed of in the above terms.

CHANDER SHEKHAR, J

OCTOBER 22, 2019/rk