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

+ CRL.M.C. 3908/2018 & CRL.M.A.29282/2018

S M ASIF

..... Petitioner

Through: Ms. Manisha Parmar and Mr.
Kapil Chaudhary, Advs.

versus

STATE & ANR

.... Respondents

Through: Mr.Panna Lal Sharma, APP
Mr. Rajesh Bhatia, Mr. Hitesh
Khanna and Mr. Hemant
Kakkar, Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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13.03.2019

1. The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) to set aside the impugned order dated 6.7.2018 passed by the learned Metropolitan Magistrate, Central District, Tis Hazari Courts, Delhi in Complaint Case No. 526309/2016 titled "Virender Bajaj vs. Mohammad Asif" rejecting the application of the petitioner under Section 311 of the Cr.P.C. for recalling of witness.

2. Learned counsel for the petitioner submitted that in the interest of justice, the petition may be allowed and he may be allowed to cross-examine the CW1 Virender Kumar Bajaj before the Trial Court and only 90 minutes' time may be given for the purpose of cross-examination of the said witness. Learned counsel for the petitioner further submitted that the petitioner is ready to bear the cost of Rs.35,000/- for the delay, if any, caused.

3. Learned counsel for the respondent No.2 submitted that in case the petitioner adheres to the condition that the petitioner shall complete the cross-examination of the said witness within 90 minutes and pays cost of Rs.35,000/- to the respondent No.2, he has no objection if only one opportunity is granted to the petitioner to cross-examine the said witness.

4. The statements of the learned counsel for the parties are accepted and are taken on record.

5. In view of the aforesaid facts and circumstances as well as taking into consideration the statements of the learned counsel for the parties and in the interest of justice, the impugned order is set aside. The petitioner is granted one opportunity to cross-examine CW1, subject to cost of Rs.35,000/-, to be paid by the petitioner to the respondent No.2 before the Trial Court on 5.4.2019, the next date of hearing, whereafter the cross-examination of CW1 shall be recorded by the Trial Court. CW1 shall remain present for cross-examination on the next date of hearing before the Trial Court.

6. It is further directed that no adjournment shall be granted for the cross-examination of CW1, under any circumstances and the cross-examination of CW1 shall be completed on the same date in terms of the statement of the learned counsel for the petitioner.

7. The petition is disposed of in the above terms. Pending application also stands disposed of.

CHANDER SHEKHAR, J

MARCH 13, 2019/rk