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

+ CRL.M.C. 6417/2018 & CRL.M.A.49869/2018

RAKESH KUMAR

..... Petitioner

Through: Mr. Kawal Nain and Ms.
Kavita Batra, Advs.

versus

THE STATE (GNCT OF DELHI) & ORS Respondents

Through: Mr.Ashish Dutta, APP with
Insp. Asha, CWC Nanakpura,
Delhi
Ms. Vipra Bhardwaj, Adv. for
R-2 with R-2 in person

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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18.02.2019

1. The present petition has been filed by the petitioner under Section 482/483 of the Code of Criminal Procedure, 1973 (Cr.P.C.) read with Article 227 of the Constitution of India for setting aside the order dated 11.9.2018 passed by the learned Metropolitan Magistrate-02 (Mahila Court) South, Saket Courts, New Delhi in CC No.469979/2016 whereby the learned Metropolitan Magistrate reviewed its own order dated 6.6.2018 dismissing the application dated 19.1.2018 moved by the petitioner for recalling of orders dated 14.3.2016 and 28.5.2016.

2. Learned counsel for the petitioner submitted that he may be given an opportunity to complete the cross-examination of CW-1.

3. Learned counsel for the respondent No.2, on instructions from

the respondent No.2, submitted that in view of the cause submitted in the petition as well as in the interest of justice and just to cut short delay, the petition may be allowed subject to heavy costs.

4. Learned counsel for the petitioner submitted that the petitioner is ready to pay a cost of Rs.50,000/- to the respondent No.2, which is acceptable to the respondent No.2.

5. Learned counsel for the parties submitted that the next date of hearing before the Trial Court is 15.4.2019. Learned counsel for the petitioner submitted that he shall cross-examine CW-1 on 15.4.2019.

6. In view of the affidavit filed by the learned counsel for the petitioner as well as the cause submitted in the petition and no objection from the respondent No.2, the impugned order dated 11.9.2018 and the order dated 6.6.2018 are set aside subject to the cost of Rs.50,000/- to be paid by the petitioner to the respondent No.2 before the Trial Court on the next date of hearing through a demand draft. The petitioner is allowed to cross-examine the aforesaid witness CW-1, on the date fixed, i.e. 15.4.2019 and thereafter, the Trial Court shall proceed in the matter in accordance with law.

7. It is clarified that no further adjournment shall be granted by the Trial Court, for any reason whatsoever, for the purpose of cross-examining the aforesaid witness. In case any adjournment is sought by the petitioner, the opportunity to cross-examine the aforesaid witness shall be closed by the Trial Court. However, if the Trial Court finds that there is not sufficient time with the Court for the continuation of the cross-examination of the aforesaid witness, the Court may adjourn the same on its own but for that purpose no adjournment would be

sought by the petitioner or his counsel.

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

Dasti.

CHANDER SHEKHAR, J

FEBRUARY 18, 2019/rk