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

+ CRL.M.C. 682/2020

CHETNA @ CHANDRA KANTA & ANR Petitioners

Through: Mr. Atul Kumar, Advocate.

versus

STATE & ANR. Respondents

Through: Mr. Amit Ahlawat, APP for the State.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

% **07.02.2020**

Crl. M.A. No. 2823/2020 (for exemption)

Exemption allowed subject to just exceptions.

The application stands disposed of.

CRL.M.C. 682/2020 and Crl. M.A. No. 2822/2020 (for stay)

Petitioner is aggrieved by the order dated 14.01.2020 passed by Mahila Court whereby the application moved by the petitioner under Section 311 Cr.P.C. seeking cross-examination of PW1 and PW2 was dismissed.

I have perused the impugned order dated 14.01.2020 which notes that counsel for the petitioner had not appeared on 14.01.2020. The said order also notes that counsel for the petitioner had also not appeared on the last date of hearing i.e. 18.12.2019. Therefore, learned Metropolitan Magistrate closed the right of the petitioner to

cross-examine PW1 and PW2.

It is submitted by learned counsel for the petitioner that petitioner is a poor lady and was not having sufficient means to engage a counsel and she was represented by a legal aid counsel who had not appeared on the two dates which resulted in closing of the evidence of PW1 and PW2.

On the other hand, it is submitted by learned APP for the State that looking into the facts and circumstances of the case and also the fact that petitioner was represented by a counsel from Delhi State Legal Service Authority (DLSA), he does not object to the setting aside of the order dated 14.01.2020, however, he submits that only one opportunity may be granted to the petitioner to examine the said two witnesses subject to their availability.

In view of this, the impugned order dated 14.01.2020 is set aside and the petitioner is granted one opportunity to cross-examine PW1 and PW2.

Record reveals that before the Metropolitan Magistrate petitioner was represented through Mr. A.K. Nigam, Advocate, 64, Gajanand Block, Tis Hazari Courts, Delhi. He had not appeared before the Court of learned Metropolitan Magistrate which resulted in passing of the impugned order.

In these circumstances, the matter be brought to the notice of Secretary, DLSA, and he shall ensure that DLSA counsels appear in court on the date fixed and in case they are held up in some other court, some information should be given to the courts where their matters are listed about non-appearance of the legal aid counsel.

The petition is accordingly disposed of.

A copy of the order be sent to the Secretary, Delhi State Legal Service Authority.

Dasti.

RAJNISH BHATNAGAR, J

FEBRUARY 07, 2020

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