

\$~58

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

+ **CRL.M.C. 897/2020**

DANISH

..... Petitioner

Through: Kunwar Arish Ali Raza, Advocate
versus

STATE

..... Respondent

Through: Mr.Kewal Singh Ahuja, APP for State

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **18.02.2020**

The petitioner vide the present petition seeks setting aside of the impugned order dated 17.12.2019 of the learned ASJ (North-East) in FIR No. 762/15, PS Seelampur registered under Sections 307 of the Indian Penal Code, 1860 vide which the prayer made by the petitioner herein seeking recalling of the witnesses PW-9 Ct.Nareshveer and PW-10 Inspector U. Balashankaran vide an application under Section 311 of the Cr.P.C. was declined observing to the effect that the application was vague through its contents specifying no reasonable ground as to why the witnesses could not be cross-examined.

In reply to a specific Court query, it has been submitted on behalf of the applicant that the present prayer is now confined to seek recalling of the witness PW-10 Inspector U. Balashankaran in as much as PW-9 Ct Nareshveer has already been recalled by the learned Trial Court for further cross-examination.

Notice of the petition is issued to the State which is accepted on behalf of the State.

The submissions have been heard on behalf of either side.

A bare perusal of the certified copy of the testimony of PW-10 examined on 17.7.2019 indicates that the cross-examination was deferred on that date as the counsel for the accused i.e., the petitioner was not available that day but on 11.10.2019 also the counsel for the accused not being available, the cross-examination was closed. Through the present petition, the learned counsel for the petitioner submits that in as much as a new counsel had been engaged who needed time and to peruse the record and had sought time for submitting the certified copies of the cross-examination conducted as is also so averred as per the an application under Section 311 Cr.P.C. placed on record as Annexure 5.

In as much as the witness PW-10 is the Investigating Officer of the case and is a material witness, in the interest of justice, it is considered appropriate to grant the prayer made by the petitioner seeking recalling of the PW-10 Inspector U. Balashankaran with only one single opportunity granted to the petitioner for the cross-examination of the PW-10 subject to deposit of costs of Rs.2500/- with the Delhi State Legal Services Authority and subject to the receipt of the costs being produced before the learned Trial Court on 17.3.2020.

The petition is disposed of.

A copy of the order be sent to the learned Trial Court.

ANU MALHOTRA, J

FEBRUARY 18, 2020/SV