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

\+ CRL.M.C. 1239/2020

RAJA DAVINDER SINGH ..... Petitioner

Through Mr.Sudarshan Joon and Mr.Lakshay Anand, Advs.

versus

M/S UNIVERSAL BLUE REALTECH PVT. LTD. .... Respondent

Through None

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

O R D E R

% 04.03.2020

Crl. M.A. 4806/2020 (for exemption)

Allowed, subject to all just exceptions.

Application is disposed of.

CRL.M.C. 1239/2020 & CRL.M.A.4805/2020 (for stay)

The present petition is filed by petitioner under Section 482 Cr.P.C. for setting aside impugned orders dated 29.11.2019 and 29.1.2020 passed by Metropolitan Magistrate, Tis Hazari Court, Delhi in C.C.No.530881/2016, titled as *Universal Blue Realtech Pvt. Ltd. vs. Raja Davinder Singh* and for granting an opportunity to petitioner to recall Authorised Representative (AR) of respondent company for cross examination.

Case of petitioner is that on 14.9.2018, respondent company led its evidence to prove its case against petitioner by examining its witness. On 11.12.2018, petitioner conducted part cross-examination of AR (witness) but cross-examination was deferred either due to paucity of time. Thereafter,

could not be concluded due to paucity of time or absence of Presiding Officer.

The case of petitioner totally relies on cross examination of AR who is only witness from complainant side. CE is at its initial stage and exhaustive examination of AR is really essential for proving case in favour of petitioner and against complainant. The said AR was called by Trial Court for cross-examination but main counsel for petitioner could not reach Court as he had gone for RCT operation (Root Canal Treatment) due to which he was unable to speak. In order to comply with the order of Trial Court regarding final opportunity of cross-examination, he instructed his associate to seek an adjournment due to his health reasons by stating abovesaid reasons before Trial Court. However, CE started on 11.12.2018 and on seeing its lengthy cross-examination, the learned Magistrate closed it.

Thereafter, on 29.1.2020, petitioner filed an application under Section 311 Cr.P.C. for recalling of the authorized representative of the company for cross-examination but the same was dismissed vide order dated 29.2.2020.

Learned counsel for petitioner submits that unavailability of counsel for petitioner was due to reason mentioned above which was not intentional and the same was out of his control. If cross-examination of AR of respondent company is not granted to petitioner then irreparable loss may be caused to him.

Keeping in view the fact that counsel for petitioner remained present on each and every date, but could not appear on 29.11.2019, therefore, I hereby set aside impugned orders dated 29.11.2019 and 29.1.2020 and direct

Trial Court to give one opportunity to petitioner to cross-examine AR of respondent Company.

In view of above, present petition is allowed and disposed of.

Pending application stands disposed of.

Order *dasti* under the signatures of Court Master.

SURESH KUMAR KAIT, J

MARCH 04, 2020/rk