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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1343/2020**

AMARNATH

..... Petitioner

Through: Mr.Priyanka Tiwari, Advocate

versus

STATE & ANR.

..... Respondents

Through: Mr.Ashok Kumar Garg, APP for State
with SI Kuldeep Singh, PS Jaffarpur
Kalan

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **11.03.2020**

Crl.M.A. No.5174/2020

Exemption allowed, subject to just exceptions.

Crl.M.C. No. 1343/2020

The petitioner, vide the present petition, assails the impugned order dated 18.1.2020 of the learned Metropolitan Magistrate-01 (South-West) and seeks that the said order be set aside and the witnesses PW-1 (KHEMA NATH), PW-2 (CHHAYA DEVI), PW-3 (BANNA NATH) and PW-7 (PRAVEENA) be recalled for their cross-examination.

It has been submitted on behalf of the petitioner by the learned counsel present that there were only 20 minutes to conduct the cross-examination and the petitioner could not put all queries.

There is nothing on the record to substantiate the submission that has been made that no ample opportunity was granted to the petitioner to conduct the cross-examination. Rather the impugned

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order dated 18.1.2020 shows to the effect that PW-1 Khema Nath was examined in chief on 20.12.2012 , the cross-examination of PW-1 was deferred due to the non-availability of the defence counsel and that PW-1 was again called and was duly cross-examined by the defence counsel on 28.5.2015. PW-2 Chhaya Devi was examined in chief on 20.12.2012 and the cross-examination was deferred due to the non availability of the defence counsel and was called again on 9.9.2013 on which date PW-2 was extensively cross-examined. PW-3 Banna Nath was examined in chief on 19.9.2016, however, the cross-examination of the witness was deferred at the request of the learned counsel for the defence and the witness was against called on 17.7.2017 and was duly cross-examined. The witness PW-7 Praveena was examined in chief on 4.10.2019 and the cross-examination of the witness was deferred on the said date as the main defence counsel was unavailable on that day and that the witness was again called on 1.11.2019 and was extensively cross examined.

It is sought to be submitted on behalf of the petitioner that the witness PW-7 appeared after a period of eight years for her testimony. Be that as it may, the impugned order observes to the effect that the cross-examination of the said witnesses was conducted. On behalf of the petitioner it has been submitted that there are certain aspects in relation to the closure report that has been filed by the State in relation to FIR No. 93/2012 filed on the complaint of mother of the complainant in relation to which, the aspect needs to be brought on record, it is apparent that the said aspect can undoubtedly be put in defence evidence by the petitioner.

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There is no ground for modification of the impugned order dated 18.1.2020. The prayer is declined.

The petition is dismissed.

ANU MALHOTRA, J

MARCH 11, 2020/SV

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