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

Date of decision: 29.01.2020

+ CRL.M.C. 3632/2019 & CrI.M.A. 32124/2019

VEENA PITTIE

..... Petitioner

Through Mr.Kailash Vasudev & Mr.P.C. Sen,
Sr. Advs. with Mr.Sidharth Joshi,
Ms.Bindu Saxena, Mr.Dhruv Saxena,
Ms.Aparajita Swarup, MS.Ambaree,
Mr.Rajat Prajapati & Mr.Shantanu
Rathor, Advs.

versus

STATE

..... Respondent

Through Mr. Izhar Ahmad, APP for State.
SI Mahesh Kumar PS Nabi Karim.
Mr.Prince Arora, Adv. for
complainant /R-2.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

1. The present petition is filed under section 482 of Cr.P.C., 1973 against the order dated 15.05.2019 passed by learned MM, Tis Hazari Courts, Delhi whereby application under section 311 Cr.P.C. filed by the petitioner has been dismissed.

2. As stated in present petition, as per the order dated 21.01.2019 of this Court in the Crl.M.C. 1195/2017, this Court had directed to conduct the cross examination of the complainant i.e. PW-1 and further directed to obtain the certified copy of the same and place it on record before the Court. Meanwhile, accused no.1 Late Sh. Girdhari Lal had expired and the same was brought to the notice of trial court on 06.02.2019 and Trial Court called for the death verification report of the said accused Girdhari Lal. Accordingly, cross examination of PW-1 was adjourned for 27.02.2019 as due to death of said accused the nature, strategy and quantum of questions of the cross examination were to be changed. On 27.02.2019, the death verification report of Girdhari Lal was still awaited and the matter was further adjourned to 06.03.2019. Thereafter, on 06.03.2019, the Presiding Officer was on leave and matter was adjourned to 16.03.2019. Again on the said date, the Presiding Officer was on leave and the matter was again adjourned to 27.03.2019 and again on the said date, PO was on leave and adjourned for 10.04.2019. On all these hearings, counsel for the petitioner was present throughout. On 10.04.2019, the complainant i.e. PW-1 did not appear for the cross examination and matter was further adjourned to 24.04.2019. On the said date, counsel for the accused had to attend the

matter at the Hon'ble Supreme Court and directed proxy counsel to seek a pass over for 12:30 pm or beyond but the court passed it over for 12 noon. At that time, proxy counsel requested some more time as the main counsel could not reach by that time to cross examine the complainant. The request made by proxy counsel was turned down by the Trial Court and further directed to close the opportunity to cross examine the complainant by the accused.

3. Counsel for the complainant has strongly opposed the present petition and submits that 4-5 dates have already been given to cross examine, however, petitioner declined the same. He further submits that even after imposing cost, the petitioner is lingering on the trial and not cross-examine the complainant.

4. Keeping in view the fact that FIR is of 2009 and trial is going on, this Court also issued directions to complete cross examination by February, 2019, however, meanwhile, one accused Girdhari Lal expired due to which cross examination was deferred and on three dates as mentioned above, PO was on leave whereas the petitioner was present in court.

5. In view of above, I am of the considered opinion that the Trial Court shall fix a particular date and time and if the petitioner does not come forward to cross examine the witness, his right to cross examine shall be closed.

6. Since the petitioner has wasted a lot of time as is apparent from the order of the Trial Court, I hereby impose cost of Rs.20,000/- upon the petitioner.

7. Out of the cost amount, Rs.10,000/- shall be paid in favour of the complainant and balance of Rs.10,000/- shall be paid in favour of Delhi High Court Legal Service Committee.

8. Accordingly, the petition is allowed and disposed of.

9. Pending application stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

JANUARY 29, 2020
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