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

+ **CM(M) 989/2018 & CM APPLs. 34505/2018, 34507/2018,
2961/2020, 2962/2020**

ANIL KUMAR

..... Petitioner

Through: Mr. Rakesh Patiyal, Advocate (M-
9811539888)

versus

SUNIL KUMAR & ORS.

..... Respondents

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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14.02.2020

1. The grievance in this petition is that the ld. counsel for the Petitioner could not reach in time for conducting the cross-examination of RW-4 and 5. The Trial Court therefore closed the Petitioner's right to cross-examine. The said order reads as under:

“Examination-in-chief of RW-4 Alka Dureja and RW-5 Anup Kumar recorded. Petitioner submits that his Counsel Sh. Deepak Kumar Sharma is at Patiala House Courts and would reach at 11.30 a.m. At his request, be awaited for his Counsel.

At 11:30 a.m.

Petitioner submits that now he has received a message from his Counsel Sh. Deepak Kumar Sharma that he is not well and is not in a position to come today. In these circumstances, RW-4 and RW-5 tendered for cross-examination and opportunity granted to the petitioner to cross-examine the witnesses and closed as 'Nil. Opportunity given.

Two witness namely Rajinder Singh and Uday Bhan Shokeen are present but discharged unexamined

as they have not brought the relevant record. Diet money paid to the witnesses.

At this stage, petitioner submits that he would change his Counsel and engage a new Counsel. Now to come up for remaining RE on 29.08.2018.”

2. Ld. counsel for Respondent No.1 has appeared even in the past. Ld. counsel for the Petitioner submits that the matter was listed in the Trial Court even yesterday and ld. counsel for the Respondent was informed about the matter being listed before this Court today.
3. Since the only reason why the Petitioner’s right to cross-examine was closed was the fact that the ld. counsel did not reach due to his illness, this Court is of the opinion that a last and final opportunity can be granted for the cross-examination of RW-4 and 5.
4. The Petitioner shall now cross-examine RW-4 and 5 on the date fixed by the Trial Court, subject to payment of Rs.10,000/- as costs i.e., Rs.5,000/- to each of the witnesses. Costs shall be paid on the day when the witness appears before the Court. No adjournment shall be granted by the Trial Court.
5. The petition is disposed of in the above terms. All pending applications are also disposed of.

PRATHIBA M. SINGH, J.

FEBRUARY 14, 2020

Rahul