

\$~64

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

+ CRL.M.C. 6550/2022, CRL.M.A. 25519/2022

AMIT KUMAR

..... Petitioner

Through: Mr. Puneet Kumar, Adv.

versus

STATE GNCT OF DELHI & ANR.

..... Respondents

Through: Mr. Pradeep Gahalot, APP for the
State

%

Date of Decision: 6th December, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 25520/2022 (Exemption)

Exemption is allowed subject to all just exceptions.

CRL.M.C. 6550/2022

1. The present petition has been filed challenging the summoning order dated 9th February, 2017 as well as order dated 2nd June, 2022 whereby the application of the petitioner under Section 311Cr. PC has been dismissed.
2. At the outset, learned counsel for the petitioner submits that he does

not press his challenge to the summoning order dated 9th February, 2017. Learned counsel submits that vide the impugned order dated 2nd June, 2022 his request to recall the complainant for cross examination has been dismissed. It has been submitted that the right of the petitioner to cross examine the complainant was closed vide order dated 16th December, 2021 and thereafter, he moved an application under Section 311 Cr. PC which was dismissed vide the impugned order dated 2nd June, 2022. Learned counsel submits that if he is not given an opportunity to cross examine the complainant, the petitioner would be seriously prejudiced.

3. The petition has been filed under Section 482 Cr. PC. Though, the power conferred under Section 482 Cr. PC is wide but it has to be exercised with circumspection. The twin parameter for exercising the power under Section 482 Cr. PC are either to prevent the abuse of the process of the Court or to secure the ends of the justice.
4. In the present case, the complaint under Section 138 of NI Act was filed against the petitioner. The perusal of the order dated 16th December, 2021 indicates that the petitioner had been delaying the matter before the learned Trial Court and he was even burdened with the cost. It is also to be noted that the application under Section 311 Cr. PC was dismissed vide order dated 2nd June, 2022.
5. Learned counsel submits that initially he had filed a revision against this order which was withdrawn as being not maintainable on 19th October, 2022. Thereafter, the present petition has been filed and is placed today. It has also come to the notice of the Court during the submissions that the matter is fixed today before the learned Trial

Court for final arguments.

6. The present case is not amongst one in which the sparing power under Section 482 Cr. PC is to be invoked. Learned Trial Court has taken a view on the basis of the fact and circumstances of the case and the conduct of the petitioner. The interference in the present case would neither prevent the abuse of the process of the Court and nor would it secure the ends of the justice. The petitioner has not been diligent enough to pursue the matter. I consider that no interference is called for in this case, hence, this petition stands dismissed.

DINESH KUMAR SHARMA, J

DECEMBER 6, 2022

Pallavi

