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

+ CRL.M.C. 542/2023 & CrI.M.A.2142/2023 (stay),

RITAJ TRIPATHI

..... Petitioner

Through: Mr. Niraj K. Mishra, Advocate.

versus

THE STATE (N.C.T. OF DELHI) & ANR.

..... Respondents

Through: Mr. Satinder Singh Bawa, APP for
the State with SI Sumit, PS Hauz
Khas.

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Date of Decision: 27th January, 2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CrI.M.A.2143/2023 (exemption)

Exemption allowed subject to all just exceptions.

CRL.M.C. 542/2023

1. This is a petition under Section 482 Cr.P.C. for setting aside the order dated 19.12.2022, whereby, the application of the petitioner/accused under Section 311 Cr.P.C. for recalling PW-4 and PW-5 was dismissed.
2. Learned counsel for the petitioner submits that in the absence of the cross-examination of these witnesses, the learned Trial Court shall not be able to adjudicate the matter.

3. Issue notice. Learned Addl. P.P. for the State accepts notice.
4. Learned Addl. P.P. for the State submits that the application for recalling of the witnesses was moved after three years and there was no plausible reason for recalling of the witnesses.
5. I have considered the submissions.
6. It is a matter of common knowledge that after March 2020, the functioning of the Courts was limited on account of the COVID-19 Pandemic. The present witnesses were examined on 07.02.2019 and 23.03.2019.
7. Without going in the merits of the case, in the interest of justice and for final adjudication of the matter in dispute, let PW-4 and PW-5 be recalled for the purpose of cross-examination, subject to the cost of Rs.20,000/- to be deposited with the Delhi State Legal Services Committee. However, the petitioner, after the witnesses appeared before the learned Trial Court, shall not seek any adjournment. In case the petitioner fails to cross-examine PW-4 and PW-5, the right shall stand extinguished.
8. In view of the above, the present petition along with the pending application stands disposed of.

DINESH KUMAR SHARMA, J

JANUARY 27, 2023
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