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

+ CRL.M.C. 6018/2022 & CRL.M.A. 23605/2022 (stay)

RAVI SHANKER

..... Petitioner

Through: Mr. Mohit Mathur, Sr. Advocate with
Mr. Javed Ali and Mr. Abdul Rehman
Malik, Advocates.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. Amit Sahni, APP for the State
with SI Abhilash, PS Gandhi Nagar.
Mr. Lalit Sharma, Advocate for
respondent No.2.

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Date of Decision: 13th March, 2023

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. Present petition has been filed challenging the impugned order dated 28.09.2022, whereby, the application of the petitioner under Section 311 Cr.P.C. for recalling of PW-1 and PW-10 for cross examination was rejected by the learned Trial Court. It is pertinent to note that in the present case, PW-1 is the prosecutrix and PW-10 is the Investigating Officer.

2. Learned senior counsel for the petitioner submits that inadvertently PW-1 and PW-10 were left out to be cross-examined regarding certain

relevant aspects, i.e., site plan of the incident, statement of the victim's friend, seizure of mobile phone etc. Learned senior counsel for the petitioner submits that PW-1 and PW-10 shall be cross-examined only to this extent and the petitioner shall not take any adjournment for the cross-examination of PW-1 and PW-10.

3. PW-1 is appearing through video conferencing. Her counsel Sh. Lalit Sharma is present in Court. It has been stated that she has no objection if the present petition is allowed. An affidavit confirming this has also been handed over in Court.

4. Learned Addl. P.P. for the State has opposed the present petition. It has been submitted that the learned Trial Court has passed a detailed and reasoned order and there is no reason to set aside the same.

5. Without going into the merits of the case and in view of the fact that the prosecutrix herself has consented for the cross-examination, I consider that the petitioner can be given an opportunity for the cross-examination of PW-1 and PW-10.

6. It has been informed that the matter is fixed before the learned Trial Court for 17.03.2023.

7. In view of the above and in the interest of justice, let PW-1 and PW-10 be recalled for their cross-examination only to the extent of site plan of the incident, statement of the victim's friend, seizure of mobile phone etc.

8. Accordingly, the present petition is allowed and the pending application stands disposed of.

9. It is made clear that this court has not gone into the merits of the case and any expression made herein shall not tantamount to be an expression on merits of the case.

DINESH KUMAR SHARMA, J

MARCH 13, 2023

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