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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 6697/2022, CRL.M.A. 12240/2023

SH. PREETAM SINGH SINCE DECEASED THROUGH HIS LR S
JASPAL SINGH Petitioner

Through: Mr.A.K.Tripathi, Advocate

versus

THE STATE OF NCT OF DELHI AND ANR. Respondents

Through: Mr.Digam Singh Dagar, APP for the
State.

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Date of Decision: 22.05.2023

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 under section 482 CR.P.C. seeking to set aside the order dated 10.10.2022, whereby, the application filed by the petitioner/complainant u/s 311 Cr.P.C. for recalling PW/CW4 Bakshish Singh for further cross examination was rejected. Ld. MM closed the pre-charge evidence and fixed the matter for arguments on charge on 28.10.2022. Present petition also assails the order dated 28.10.2022 vide which the Ld. MM rejected the application u/s 311 Cr.P.C. for recalling Bakshish Singh filed along with an application seeking to furnish additional two Govt. witnesses on the aspect of sale



transaction done by the accused person/Respondents thereby rejecting the petitioner's plea of one more opportunity to lead pre-charge evidence. Ld. MM while dismissing the said application also imposed a cost of Rs.5,000/- to be paid to the accused on the next date.

2. Ld. Counsel for the petitioner submits that the Ld. Trial Court vide the impugned orders dated 10.10.2022 and 28.10.2022 has completely failed to appreciate the material on record and evidences led by the petitioner and overlooked the settled proposition of law by rejecting the application u/s 311 Cr.P.C. for recalling the material witnesses.
3. Ld. Counsel submits that the impugned orders suffer from illegalities and are liable to be set aside with a direction to the Ld. Trial Court to proceed with the matter in accordance with the law and adjudicate on merits.
4. I have heard the submissions and perused the orders dated 10.10.2022 and 28.10.2022 passed by the learned MM. This Court considers that the Learned MM vide order dated 10.10.2022 has passed a detailed and reasoned order specifically recording therein that the complaint is of 2004 and one of the oldest cases before the concerned court. The learned Trial Court categorically recorded that the petitioner/complainant had been taking adjournments for one reason or the other and that sufficient opportunities were given for the purposes of completing his evidence but the same was not availed. Further, the learned MM vide its order dated 28.10.2022 dismissed the application and held that the same was without any merits and only filed as a tool to delay the trial. The orders passed by the learned MM dated



10.10.2022 and 28.10.2022 are based on cogent reasoning and after appreciating the relevant materials on record.

5. The jurisdiction under Section 482 Cr.P.C. although vast should be sparingly used with due care and circumspection either to secure the ends of justice or to prevent the abuse of the process of the courts. The court can interfere only if there is any illegality or perversity in the order of learned trial court. This court cannot interfere with the order merely because another view can be taken and the same cannot be made a ground to set aside the order of learned trial court.
6. I do not find any infirmity, illegality or perversity in the impugned order which necessitates the interference of this Court. The orders dated 10.10.2022 and 28.10.2022 are upheld.
7. Accordingly, the present petition is dismissed.

DINESH KUMAR SHARMA, J

MAY 22, 2023

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