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

+ **CRL.M.C. 1330/2023**

AMARJEET

..... Petitioner

Through: Mr. Rachit Sahney, Advocate.

versus

SURENDER

..... Respondent

Through: Mr. Aman Mudgal, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

21.02.2024

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1. By way of the present petition, the petitioner/accused seeks to assail the order dated 24.08.2022 passed by learned Metropolitan Magistrate in complaint case no.1687/ 2018 whereby his application under Section 311 CR.P.C was dismissed.
2. Learned counsel for the petitioner states that the complaint case arises out of proceedings under Section 138 of NI Act. He states that the petitioner could not initially cross-examine the complainant as he was in custody in FIR No.410/2018, Police Station Burari under Section 420 of Indian Penal Code as reflected in order sheet dated 18.12.2019 of the Trial Court.
3. He further states that in case the petitioner is granted one opportunity, the cross-examination will be completed on the said date.
4. This court while issuing notice on 24.02.2023 also requested the Trial Court to fix a date after the date fixed by this court.
5. Considering that in the present case, the accused has not cross-



examined the complainant, in the interest of justice, considering the fact that the accused was also remained in custody for some period, the petition is allowed and the petitioner is granted one opportunity to cross-examine the complainant. The same shall, however, be subject to the cost of Rs.5,000/- to be paid to the respondent. Learned counsel for the petitioner assures that the cross-examination of the complainant would be completed in one day unless the court is of the opinion that another date would be required.

6. Let a copy of the order be communicated to the Trial Court.

MANOJ KUMAR OHRI, J

FEBRUARY 21, 2024/hs