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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 4626/2023, CRL.M.A. 17672/2023

DELHI CANTONMENT BOARD Petitioner
Through: Mr. Ripu Daman Bhardwaj, CGSC.

versus

SH. DEEN DAYAL TANWAR Respondent
Through: Mr. Sunil Kumar Tiwari and Mr. S.N.
Tripathi, Advocates.

AND

39. CRL.M.C. 4653/2023, CRL.M.A. 17757/2023, CRL.M.A.
17789/2023

DELHI CANTONMENT BOARD Petitioner
Through: Mr. Ripu Daman Bhardwaj, CGSC.

versus

SH. DEEN DAYAL TANWAR Respondent
Through: Mr. Sunil Kumar Tiwari and Mr. S.N.
Tripathi, Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
29.04.2024

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1. By way of above-noted petitions, filed under Section 482 Cr.P.C., the petitioner seeks to assail both the orders dated 21.03.2020 passed by Ld. M.M.-04, South West, Dwarka, New Delhi in Complaint Case Nos. 4989136/2016 and 4989218/2016.



2. Mr. Daman, learned counsel for the petitioner states that vide the aforesaid orders, the petitioner's application under Section 311 Cr.P.C. seeking recall of witness/*Ram Saran*, former JE was dismissed. Learned counsel states that the said witness was sought to be recalled to confront the Resolution dated 18.03.2016. He further submits that during his examination, the said witness was confronted with the prior Resolution dated 28.09.2009, therefore, his recall is necessary to ascertain as to the basis on which he had framed unauthorised construction inside the building and to explain the reason for not taking the photographs of the said unauthorised construction. The said confrontation is necessary for just decision of the case.

3. Learned counsel for the respondent has opposed the prayer by submitting that there is an inordinate delay in moving the subject application. It is stated that the matter is at the stage of final arguments. After some arguments, learned counsel for the respondent states that without prejudice to rights and contentions of the respondent, the subject witness may be recalled only for one date for the aforesaid limited purpose.

4. At this stage, learned counsel for the petitioner, on instructions, assures that the witness shall be examined on the same day.

5. Learned counsel for the respondent, on instructions, also assures that cross-examination, if any, of the aforesaid witness shall also be carry out on the same day.

6. Considering the aforesaid and the scope of the Section 311 Cr.P.C., both the petitions are allowed and it is directed that subject to cost of Rs.20,000/- to be paid to respondent by way of a demand draft within four weeks, the Trial Court shall fix one date for examination/cross-examination



of aforesaid witness in both the complaint cases.

7. Both the petitions are disposed of in the above terms.

MANOJ KUMAR OHRI, J

APRIL 29, 2024

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