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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 4410/2024

SURENDRA KUMAR @ YASH CHHOKER Petitioner

Through: Mr.Abhay Kumar, Mr.Prabhas Chand
and Mr.Ashok Kumar, Advocates

versus

STATE NCT OF DELHI AND ANR Respondents

Through: Mr. Nawal Kishore Jha, APP for State
Mr.Pawan Singh Tanwar, Advocate for respondent
No. 2

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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29.05.2024

1. By way of present petition filed under Section 482 Cr.P.C, the petitioner seeks to assail the order dated 10.04.2024 passed by learned MM NI Act-06/South District, Saket Courts, New Delhi.
2. Learned counsel for the petitioner states that he had failed to appear on account of some personal difficulty on 19.03.2024, though the petitioner had appeared through V.C. as recorded in the said order. He further submits that the matter was re-listed on 10.04.2024 and the petitioner was directed to deposit cost of Rs.2,000/-, however, the same could not be deposited and the right to cross-examine the complainant was closed, despite the presence of the proxy counsel for the petitioner.
3. Issue notice.
4. Learned APP for the State as well as learned counsel for respondent No.2 accept notice.



5. Fair trial is the hallmark of criminal procedure. It entails not only the rights of the victims but also the interest of the accused and the society. It is the duty of the criminal court to ensure that fair and proper opportunity is granted to the accused to adduce evidence in his defence, for the just decision of the case. Such adducing of evidence by the accused is a valuable right. In Natasha Singh v. CBI reported as **(2013) 5 SCC 741**, the Supreme Court has observed:-

“16. Fair trial is the main object of criminal procedure, and it is the duty of the court to ensure that such fairness is not hampered or threatened in any manner. Fair trial entails the interests of the accused, the victim and of the society, and therefore, fair trial includes the grant of fair and proper opportunities to the person concerned, and the same must be ensured as this is a constitutional, as well as a human right. Thus, under no circumstances can a person’s right to fair trial be jeopardized. Adducing evidence in support of the defence is a valuable right. Denial of such a right would amount to the denial of a fair trial. Thus, it is essential that the rules of procedure that have been designed to ensure justice are scrupulously followed, and the court must be zealous in ensuring that there is no breach of the same.”

6. Considering the fact that the complainant has not been cross-examined at all, the denial of the same would greatly prejudice the petitioner. In the interest of justice, this Court is inclined to allow the present petition and grant only one opportunity to the petitioner to carry out the cross-examination however, the same shall be subject to the payment of previous cost imposed by the trial i.e. Rs 2000/- court as well as further cost of Rs.5,000/- to be paid to the complainant within two weeks from today. The trial court shall summon the said witness only for one date and the cross-examination shall be carried out on the same date. In case for any



reason, cross-examination is not carried on the said date, the right to carry out the same shall stand closed.

7. In view of the above, the petition is disposed of alongwith the pending application.

8. A copy of this order be communicated to the concerned trial court for information.

MANOJ KUMAR OHRI, J

MAY 29, 2024
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