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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 6141/2023**

SELAK RAM AND ANR Petitioners
Through: **Mr.Kshitij Singh, Advocate.**

versus

STATE Respondent
Through: **Mr.Nawal Kishore Jha, APP for State**
with ASI Vikram Singh, PS Karawal
Nagar.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
02.04.2024

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CRL.M.A. 23038/2023

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

CRL.M.C. 6141/2023, CRL.M.A. 23037/2023

1. By way of present petition, the petitioners seeks setting aside of interlocutory order dated 07.07.2023 passed by learned MM, North East Karkardooma Court, New Delhi vide which application under Section 311 seeking recalling of witnesses Cr.P.C. was rejected.
2. Learned counsel for the petitioners submits that the petitioners were charged under Sections 420/467/468/471/474/447/448/506/201/120B IPC. He submits that in the present case, the complainant has expired and the prosecution had cited PW-2 as a supporting witness. He was initially examined and partially cross-examined on 16.09.2019 however further cross-examination was deferred for want of certain documents. He submits



that thereafter, the matter was listed on 29.11.2019 when the matter was adjourned. The cross-examination was again deferred on 24.01.2020 when the said documents were not available. He submits that thereafter, the matter could not be taken up on account of Covid-19 and eventually on 27.05.2023, the right to further cross-examine the witness was closed. The learned counsel for the petitioner submits that the petitioner could not be examined as the counsel who had to examine the witness on the said date had to leave for his native village. He submits that if permitted, the petitioner would need only one date to cross-examine said witness.

3. Mr.Jha, learned APP for the State, however, opposes the application and states that the petitioner has failed to further cross-examine the witness despite opportunities granted by the trial court.

4. Considering that in the present case, the complainant has already expired, the cross examination of PW-2 who is stated to be running a factory in the premises in question and is a relevant witness, is necessary for the petitioner to establish his defence.

5. Indeed, there is some lapse on behalf of the petitioners in delaying the further cross-examination of this witness, however, considering the facts of the case and that fact that the matter is still at the stage of prosecution evidence, this Court is of the considered opinion that it would be in the interest of justice if the petitioners are granted one last opportunity to cross-examine the witness. The trial court shall ensure that PW-2 is summoned for one date on which day the petitioners would cross-examine the said witness. Learned counsel for the petitioners assures that no request of adjournment would be made and the witness would be examined on the said date.

The petition is allowed subject to payment of cost of Rs.10,000/- by the



petitioners to DSLSA Account bearing A/c No.18580110053263 of UCO Bank, Rouse Avenue Branch (IFSC Code : UCBA0003364). The amount so deposited shall be utilized by the DSLSA for providing counselling/psychological support to POCSO victims requiring such assistance.

6. Proof evidencing receipt of deposit shall be filed with the I.O. as well as in Court failing which, the Registry shall list the matter in the Court.
7. A copy of this order be communicated to the Member Secretary, Delhi State Legal Services Authority for intimation.
8. With the above directions, the petition is disposed of alongwith miscellaneous application.

MANOJ KUMAR OHRI, J

APRIL 2, 2024
VLD