



\$~21

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

+ **CRL.M.C. 4852/2024**

BIREN SABBARWAL

..... Petitioner

Through: Mr. Chandra Shekhar Yadav,
Advocate.

versus

STATE OF NCT OF DELHI & ANR.

..... Respondent

Through: Mr. Raghav Awasthi, Advocate for R-
2.
Mr. Utkarsh, APP for the State.
Mr. Jai Gopal Gautam- PW-3.
Mr. Sumit -PW-6.

CORAM:

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

% **19.06.2024**

CRL.M.A. 18340/2024 (EXEM)

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

CRL.M.C. 4852/2024 & CRL.M.A. 18339/2024 (STAY)

1. The present petition is filed under Section 482 of Cr.P.C for quashing of the orders dated 07.05.2024 and 06.06.2024 passed by the court of Mr. Vivek Kumar Gulia, Additional Sessions Judge/Special Judge(Elect.)/South, Saket Courts, New Delhi in case bearing SC No. 403/2018 titled as **State V Biren Sabbarwal**.
2. Issue notice.
3. Mr. Utkarsh, Additional Public Prosecutor, accepts the notice on



behalf of the respondent no.1 and Mr. Raghav Awasthi accepts the notice on behalf of respondent no.2.

4. The petitioner was put to trial in pursuance of FIR bearing no. 165/2016 registered under Section 135 of the Indian Electricity Act, 2003 registered at P.S. Defence Colony. During the trial the respondent no.2 produced the PW-3 Jai Gopal Gautam, Senior Manager, BRPL for further cross-examination to be conducted by the petitioner on 07.05.2024. However, the counsel for the petitioner sought adjournment. The trial court after considering the past conduct of the petitioner who had taken several adjournments, closed the opportunity of further cross-examination of PW-3 Jai Gopal Gautam, Senior Manager, BRPL.

5. The petitioner, thereafter, filed an application under section 311 Cr.P.C for recalling of PW3 (wrongly mentioned as PW-5 in order dated 06.06.2024.) and PW-6 (whose further cross-examination was earlier closed by the trial court) but the said application was dismissed vide order dated 06.06.2024.

6. The counsel for the petitioner stated that the PW-3 and PW-6 are the material witnesses and their cross-examination is required for the just disposal of the case particularly in criminal trial. It is further stated that the petitioner is ready to cross-examine the witnesses as per the directions given by the trial court.

7. The counsel for the respondent no.2 opposed the petition by stating that the petitioner has adopted delaying tactics which is appearing from the impugned order dated 07.05.2024.

8. After considering all facts, the impugned order dated 07.05.2024 and 06.06.2024 are set aside. The petitioner is given another opportunity to



cross-examine witnesses PW-3 Jai Gopal Gautam, Senior Manager, BRPL and PW-6 Mr. Sumit on the date so fixed by the trial court. However, the petitioner is burdened with the cost of Rs.25,000/- to be paid before the trial court to respondent no.2. The parties are directed to appear before the trial court on 06.07.2024 as already listed.

9. The petition is disposed of along with pending applications.
10. A copy of this order be sent to the trial court for information.

DR. SUDHIR KUMAR JAIN
(VACATION JUDGE)

JUNE 19, 2024/K/am