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

+ CRL.M.C. 6740/2022 & CRL.M.A. 26177/2022, CRL.M.A.
8157/2024

PRADNYA KORDE & ANR.

.....Petitioners

Through: Mohd. Asif, Mr. Shakeel Ahmad and
Mr. Asif Malik, Advocates.

versus

STRYTON EXIM INDIA PVT.LTD.

.....Respondent

Through: Mr. Jagdev Singh, Mr. Parveen Bhati,
Mr. Anil Naagar and Mr. Sunil Bhati,
Advocates.

+ CRL.M.C. 6741/2022 & CRL.M.A. 26179/2022, CRL.M.A.
8144/2024

(102) PRADNYA KORDE & ANR.

.....Petitioners

Through: Mohd. Asif, Mr. Shakeel Ahmad and
Mr. Asif Malik, Advocates.

versus

STRYTON EXIM INDIA PVT.LTD.

.....Respondent

Through: Mr. Jagdev Singh, Mr. Parveen Bhati,
Mr. Anil Naagar and Mr. Sunil Bhati,
Advocates.

+ CRL.M.C. 6742/2022 & CRL.M.A. 26181/2022, CRL.M.A.
8158/2024

(103) PRADNYA KORDE & ANR.

.....Petitioners

Through: Mohd. Asif, Mr. Shakeel Ahmad and
Mr. Asif Malik, Advocates.

versus

STRYTON EXIM INDIA PVT.LTD.

.....Respondent

Through: Mr. Jagdev Singh, Mr. Parveen Bhati,
Mr. Anil Naagar and Mr. Sunil Bhati,



Advocates.

+ CRL.M.C. 6743/2022 & CRL.M.A. 26183/2022, CRL.M.A.
8080/2024

(104) PRADNYA KORDE & ANR.

.....Petitioners

Through: Mohd. Asif, Mr. Shakeel Ahmad and
Mr. Asif Malik, Advocates.

versus

STRYTON EXIM INDIA PVT.LTD.

.....Respondent

Through: Mr. Jagdev Singh, Mr. Parveen Bhati,
Mr. Anil Naagar and Mr. Sunil Bhati,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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07.08.2024

1. Petitioners have approached this Court challenging the Order dated 17.09.2022, passed by the learned Metropolitan Magistrate, Tis Hazari Courts, in CC No.1247/2017, rejecting the application filed by the Petitioners under Section 311 of the Cr.P.C. seeking leading defense evidence.
2. A perusal of the Order sheets reveal that the defense evidence was pending from 18.12.2019. Opportunity was granted to the Petitioners herein for leading evidence on 19.02.2020 and 21.07.2022, however, the same was not availed by the Petitioners. A final opportunity was granted to the Petitioners to lead evidence on 24.08.2022, on which date, the Petitioners were absent. The defense evidence was closed. The matter was fixed for final arguments on 06.09.2022. On 06.09.2022, there was again no appearance on behalf of the Petitioners and the matter was adjourned to 17.09.2022. On 17.09.2022, Petitioners herein filed an application under Section 311 Cr.P.C and the same was dismissed by the Trial Court on the



ground that it is only a dilatory tactic on the part of the Petitioners.

3. The Apex Court, in a catena of judgments, has held that the Courts exercise their power under Section 311 Cr.P.C when it appears to be essential for arriving at a decision in a case, an application under Section 311 Cr.P.C is not permitted when it is an attempt by the defense to fill up any lacunae in the evidence.

4. In the present case, the defense was lax in leading defense evidence and, therefore, it is not a case of filling up lacunae by the defense. Accordingly, this Court is inclined to give one last opportunity to the Petitioners to lead evidence. However, looking at the conduct of the Petitioners that even after giving a number of opportunities, the Petitioners have not led evidence, this Court is inclined to impose costs on the Petitioners as a condition precedent for leading evidence. Accordingly, the Petitioners are directed to pay Rs.50,000/- as costs to the Respondent on 22.08.2024.

5. The Petitioners are directed to appear before the Trial Court on 22.08.2024 to lead evidence. The Trial Court is requested to adjust its diary to accommodate the Petitioners to lead evidence on 22.08.2024. The Respondent is also directed to cross-examine the Petitioners and conclude the cross-examination on 22.08.2024 itself or on the next date if the evidence is not concluded.

6. With these directions, the Petitions are disposed of along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

AUGUST 7, 2024

Rahul