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

+ **CRL.M.C. 8783/2023 and CRL. M.A. 11547/2024**

**HARVINDER SINGH**

..... Petitioner

Through: Mr. Abhishek Wadhwa, Ms. Muskan Gupta, Ms. Vaishali Dixit, Mr. Junaid Qureshi and Ms. Nitika Khanna, Advocates

versus

**KARAN SINGH**

..... Respondent

Through: Mr. Yogesh Kaushik, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**ORDER**

**25.04.2024**

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1. By way of the present petition filed under Section 482 Cr.P.C., the petitioner seeks to assail the order dated 10.08.2023 passed by learned Principal District and Sessions Judge as well as order dated 08.05.2023 passed by the learned Presiding Officer, Special Court (NI Act), South-East District, Saket Courts, Delhi. Vide the said orders, petitioner's application for recall of CW-1 for further cross-examination was dismissed and the said decision also came to be upheld in revision by Principal District and Sessions Judge.

2. Learned counsel for the petitioner submits that in the cross-examination carried out earlier, the complainant has taken a stand that loan of Rs.8 lacs was repaid over a period of time, however, he has not provided details regarding the same. He submits that in the earlier cross-examination, the details of loan as well as respondent's capacity to advance loan were not



adverted to. He submits that he wishes to carry out further cross-examination only on the aforesaid aspect.

3. Learned counsel for the respondent has resisted the petition. He submits that despite the fact that an order dismissing the application under Section 311 Cr.P.C. is interlocutory in nature, learned Principal District & Sessions Judge erred in entertaining the revision petition. He further submits that the subject application was preferred at the stage when defence evidence was being led and that the application has been filed only on the ground that there is a change in counsel. It is further stated that the petitioner has, in fact, offered to settle the matter before the trial court.

4. I have heard counsels for the parties and also gone through the material placed on record. At the outset, it is duly acknowledged that an order dismissing application under Section 311 Cr.P.C. is an interlocutory order and no revision is maintainable. Reference in this regard is made to the decision of the Supreme Court in Sethuraman v. Rajamanickam reported as **(2009) 5 SCC 153**, wherein the said position of law has been affirmed.

5. The facts of the present case would show that the petitioner and respondent were known to each other as they had worked together in the same company. Subsequently, the respondent opened a new company, wherein the petitioner was employed. The petitioner denies the factum of receiving any loan.

6. Respondent submits that the petitioner has settled the matter and has argued that the same has been done before Trial Court.

7. Having gone through the cross-examination of the complainant carried out so far and considering the limited aspect on which further cross-examination is sought, this Court is inclined to allow the present petition and



grant only one opportunity to the petitioner to carry out the cross-examination. Subject to the payment of cost of Rs.10,000/- to be paid to the complainant within two weeks from today, the petitioner is granted one opportunity to cross-examine the said witness. 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.

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

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

**MANOJ KUMAR OHRI, J**

**APRIL 25, 2024**

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