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

+ **CRL.M.C. 6217/2024**

BIREN SABBARWAL

.....Petitioner

Through: Mr. Chandra Shekhar Yadav,
Advocate.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Shoaib Haider, APP for the State.
Mr. Sharique Hussain and Mr.
Raghav Awasthi, Advocates for R-2.
SI Nirankar (165/2016), PS Defence
Colony.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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12.08.2024

CRL.M.A. 23761/2024 (Exemption)

Allowed, subject to all just exceptions.

CRL.M.C. 6217/2024 & CRL.M.A. 23760/2024

1. The Petitioner has approached this Court challenging an Order dated 24.07.2024 passed by learned ASJ, Saket Courts, New Delhi whereby the learned Trial Court had declined to cross-examine PW-3 further.
2. The facts of the case reveal that the Petitioner approached this Court by filing CRL.M.C. 4852/2024 challenging Orders dated 07.05.2024 and 06.06.2024 passed by the learned Trial Court dismissing an application under Section 311 CrPC where cross-examination of PW-3 and PW-6 had been declined.
3. This Court *vide* Order dated 19.06.2024 in CRL.M.C. 4852/2024, after considering all the circumstances passed the following order:-

“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 ”

4. In compliance of the said order, cross-examination of PW-6 has been conducted. However, cross-examination of PW-3 was going on 24.07.2024. Unfortunately, the cross-examination of PW-3 could not be concluded on that day and the Trial Court refused to grant one more day to complete the cross-examination of PW-3.
5. This Court is of the opinion that the order impugned herein is not in the spirit of the Order dated 19.06.2024 passed by this Court wherein this Court permitted the Petitioner to complete cross-examination of PW-6 and PW-3. This Court is therefore inclined to set aside the said order and request the learned ASJ to permit the Petitioner to complete the cross-examination of PW-3.
6. Learned Counsel for the Petitioner states that cross-examination of PW-3 would not exceed another 3-4 hours. Since the purport of Section 311 CrPC is for arriving at a just decision of the case, learned Counsel for the Petitioner is requested to keep the cross-examination to the point and conclude the cross-examination of PW-3 as expeditiously as possible and not exceed one day.
7. With these observations, the petition is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

AUGUST 12, 2024

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