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

+ CRL.M.C. 6985/2024, CRL.M.A. 26664/2024, CRL.M.A. 26665/2024, CRL.M.A. 26666/2024

SH. AKRAM SHIKOHPetitioner

Through: Mr. Dhananjay Jain, Adv. (VC)

versus

SH. SHABBURespondent

Through:

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

04.09.2024

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The present petition has been filed challenging the order dated 22.07.2024 passed by the JMFC-04/SHD/KKD Courts /Delhi, whereby the learned MM has declined the summoning of the defence witness by the petitioner.

The learned counsel submits that the learned MM vide the impugned order has declined the request of summoning of defence witness only on the ground of assumptions.

I have considered the submissions.

The discretion to be exercised at this stage by this Court, is very limited. The Court can interfere only if, there is any incorrect, illegality or infirmity in the order of the learned Trial Court. Learned Trial Court has given sufficient reasons for not allowing the defence witness by the petitioner. This Court cannot interfere into the impugned order only because some other views could also have been taken.



In *K.K. Verma v. Union of India*, AIR 1973 SC 1410, the Supreme Court in this matter inter alia held that the High Court's power to interfere with the Trial Court's discretion is confined to cases where there is a manifest error or legal flaw in the Trial Court's order. Similarly, in *State of Maharashtra v. Surendra S. Khandekar*, AIR 2001 SC 1534, the Supreme Court held that the higher court can only review the decision of the Trial Court if there is a clear misuse of discretion or if the decision is patently unreasonable.

Besides this, the conduct of the petitioner is also to be noted. The application for calling the defence witness was moved only on the date when the case was fixed for the defence witness. The application was not moved earlier before the learned Trial Court, and this indicates the ploy to delay the trial.

Furthermore, the impugned order was passed on 22.07.2024, and the matter was adjourned to 05.09.2024. However, the present petition was filed only on 03.09.2024, according to the filing record available on the net. Though, the date on the petition is 12.08.2024.

Accordingly, the petition along with pending applications is dismissed.

DINESH KUMAR SHARMA, J

SEPTEMBER 4, 2024

Pallavi/NA/JN