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

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+ CRL.M.C. 8166/2024, CRL.M.A. 31261/2024

NEELAM SURYAN

.....Petitioner

Through: Mr. Arvind Kumar, Mr. Randeep
Pundir, Mr. Rajneesh Kumar Singh
and Ms. Kumari Beauty Singh, Adv.

versus

SANTOSH KUMAR

.....Respondent

Through: Mr. Charanjeet Bhalla, Adv.

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+ CRL.M.C. 8167/2024, CRL.M.A. 31263/2024

NEELAM SURYAN

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Through: Mr. Arvind Kumar, Mr. Randeep
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versus

SANTOSH KUMAR

.....Respondent

Through: Mr. Charanjeet Bhalla, Adv.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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24.10.2024

CRL.M.C. 8166/2024, CRL.M.A. 31261/2024

CRL.M.C. 8167/2024, CRL.M.A. 31263/2024

1. By way of present petitions, the petitioner who is the complainant before the Trial Court, is aggrieved by the order dated 08.07.2024 passed by the learned Judicial Magistrate, First Class (NI Act), Dwarka Courts, New Delhi, whereby the respondent's application under Section 311 Cr.P.C. came



to be allowed.

2. It is stated that the respondent had made a similar application and the same was allowed by the Sessions Court vide order dated 02.11.2022 by giving an opportunity to cross examine the complainant subject to payment of cost. It is stated that neither cost was paid nor opportunity was availed. The impugned order came to be passed subsequent to the said order.

3. During the course of submissions, it is brought to the notice of the Court that there were a total of three complaints. While the respondent has already cross examined the complainant in one of the cases, the present petitions is related to the other two cases pending before the same Court.

4. The Courts have time and again set out the parameters of exercising powers under Section 311 Cr.P.C. A plain reading of Section 311 Cr.P.C. reflects that the same provides recourse to the section at any stage of the trial. Fair trial is the hallmark of criminal procedure. It is the duty of the criminal court to ensure that fair and proper opportunity is granted to the parties to adduce evidence for the just decision of the case. Such adducing of evidence is a valuable right. In regard to this, in Natasha Singh v. CBI, reported as **(2013) 5 SCC 741**, the Supreme Court has observed:-

“16. Fair trial is the main object of criminal procedure, and it is the duty of the court to ensure that such fairness is not hampered or threatened in any manner. Fair trial entails the interests of the accused, the victim and of the society, and therefore, fair trial includes the grant of fair and proper opportunities to the person concerned, and the same must be ensured as this is a constitutional, as well as a human right. Thus, under no circumstances can a person’s right to fair trial be jeopardized. Adducing evidence in support of the defence is a valuable right. Denial of such a right would amount to the denial of a fair trial. Thus, it is essential that the rules of



procedure that have been designed to ensure justice are scrupulously followed, and the court must be zealous in ensuring that there is no breach of the same.”

5. Bearing in mind the import of the decision of the Supreme Court in the abovementioned case, as well as the fact that respondents similar request came to be allowed and the petitioner already stands cross examined by virtue of a similar opportunity granted under Section 311 Cr.P.C., the impugned orders are upheld. However, considering the conduct of the respondent, the same is made subject to a further cost of Rs.5,000/- to be paid in each case.

6. Both the petitions are disposed of.

7. It is made clear that the Trial Court shall grant only one opportunity to the respondent for the said purpose and in case the same is not availed, the right to cross examine the complainant would stand closed.

Dasti.

MANOJ KUMAR OHRI, J

OCTOBER 24, 2024

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