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

+ CRL.REV.P. 1265/2024 CRL.M.A. 33172/2024 CRL.M.A.
33173/2024

RAHUL

.....Petitioner

Through: Mr. Ateev Mathur, Mr. Rajnish Gaur
& Mr. Amol Sharma, Advs.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Hemant Mehla, APP for State
SI Mahesh PS Bhalaswa Dairy

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

06.11.2024

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1. This petition has been filed for setting aside impugned order dated 27th July 2024 passed by the ASJ/Special Judge (NDPS), North, Rohini Courts, Delhi in SC 577/2018 in proceedings arising out of FIR No. 256/2018 registered under Sections 498A/304B/34 IPC at PS Bhalaswa Dairy, Delhi. The impugned order closed right of cross-examination of PW-2 by the accused noting that examination has nothing to do with inability of IO to comply with order dated 13th March 2020.
2. Counsel for petitioner points out to order dated 13th March 2020 by which an application filed by accused for IO to provide a copy of the UFED Data/conversation, retrieved from mobile phone of deceased, was allowed.
3. On 30th July 2022, PW-2 was present but was discharged unexamined as IO had failed to comply with order dated 13th March 2020.
4. On 20th May 2023, though PW-2 was present for cross examination



by counsel for accused but the IO was not present with the UFED data nor was the main counsel for accused available on that date. Accordingly, bailable warrants were issued.

5. On 19th December 2023, matter was listed for cross examination of PW-2 but counsel for accused submitted that witness could not be cross examined for want of FSL result, which was still not filed by the IO.

6. Although the ASJ may be correct in noting that cross examination cannot be held up till eternity on account of lack of UFED data, the right of cross examination may not be closed at this stage, particularly when these aspects are still to be complied with by the IO.

7. It is therefore directed that PW-2 be cross examined by counsel for the accused on the next date fixed before the Trial Court i.e. 13th January 2025. No adjournments to be granted to counsel for accused on any ground whatsoever. Additionally, since PW-2 was discharged unexamined twice on account of inability of counsel for accused to cross examine him, accused shall pay a cost of Rs.25,000/- to PW-2, through counsel.

8. Petition is disposed of with these directions.

9. Pending applications are disposed of as infructuous.

ANISH DAYAL, J

NOVEMBER 6, 2024/sm/sc