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

+ **CRL.M.C. 53/2025 & CRL.M.A. 388/2025**

DEEPAK KUMAR

.....Petitioner

Through: Mr. Deepak Kohli, Adv.
(through VC)

versus

DINESH GARG

.....Respondent

Through: Mr. Krishan Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

07.04.2025

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1. The present petition is filed challenging the order dated 31.08.2024 (hereafter “**impugned order**”) passed by the learned Judicial Magistrate First Class (‘Trial Court’) in Case No. 8 CC NI ACT 255/2022, whereby the application moved by the petitioner under Section 311 of the Code of Criminal Procedure, 1973 (‘CrPC’) for recalling of CW1/ complainant, was dismissed.
2. The petitioner is aggrieved that another opportunity to cross-examine the complainant/ respondent was not granted to him.
3. The learned counsel for the respondent/ complainant, at the outset, submits that he has no objection if the prayer is allowed, on the complainant being adequately compensated and on the petitioner being put to terms that the examination will be conducted expeditiously without seeking any unwarranted adjournments.
4. The learned counsel for the petitioner submits that the matter is now listed for further proceedings on 29.05.2025. He submits that this Court may fix any date prior to the said date on



which the complainant can appear as a witness and on the said date itself, the counsel for the petitioner would cross-examine him.

5. He submits that the cross-examination would be finished within a day.

6. Even though this Court finds no infirmity in the order passed by the learned Trial Court, however, considering that the complainant is not averse to one more opportunity being granted to the petitioner subject to he being compensated, the impugned order is set aside.

7. The parties are directed to appear before the learned Trial Court on 28.04.2025.

8. The complainant is directed to appear on the said date for further examination.

9. The learned Trial Court is requested to complete the examination of the complainant on the said day and if the date is not convenient, then give a short date for the said purpose.

10. The petitioner is directed to pay a cost of ₹10,000/- to the respondent as compensation and the proof of payment of cost be filed before the learned Trial Court.

11. The petition is disposed of in the aforesaid terms.

AMIT MAHAJAN, J

APRIL 7, 2025

“SS”