



\$~46

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

+ **CRL.M.C. 646/2025 & CRL.M.As. 3076/2025, 3077/2025**

SH. PUSHPDANT JAIN

.....Petitioner

Through: Mr. Surjeet Singh Malhotra,
Advocate

versus

SH. ASHOK KUMAR

.....Respondent

Through: None

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **31.01.2025**

1. This petition has been filed seeking quashing of the order dated 20.01.2025, whereby the Trial Court had dismissed Petitioner's application under Section 311 Cr.P.C. seeking re-examination of the complainant on a limited issues.
2. The Petitioner is the accused in the complaint proceedings and the Respondent is the complainant.
3. At the outset, learned counsel for the Petitioner states that arguments in the complaint case have been concluded on 30.01.2025 and judgment has been reserved by the Trial Court.
4. Learned counsel for the Petitioner states that the Petitioner is seeking recall of the complainant to re-examine him on a limited issue with respect to his relationship with one Ashok Kumar Yadav. He states that the said Ashok Kumar Yadav and his wife Neelam had also filed Section 138 NI Act complaints against the Petitioner herein. He states that the Petitioner wants



to put these questions to the complainant.

5. He states that in his cross-examination the Respondent/complainant has already admitted his relationship with the said Ashok Kumar Yadav.

6. He states that the Petitioner may be bound down to the time within which the cross-examination will be concluded.

7. This Court has heard the learned counsel for the Petitioner and perused the record.

8. The order of the Trial Court is succinct and reads as under: -

“Perusal of the record shows that accused was directed to file the copy u/s 145(2) NI Act on 16.12.2020 and thereafter accused has been provided several opportunities and accused provided the copy of 23.11.2021 i.e. almost around the year. Thereafter he was provided with an opportunity to cross examine the complainant and his right was closed on 08.05.2023 but still the predecessor of this court, in the interest of justice gave the opportunity to cross examine the complainant u/s 311 Cr.P.C. on 26.08.2023 and complainant was cross examined on 27.01.2024. Today, the matter is at the stage of arguments and accused once again moved an application u/s 311 Cr.P.C. This seems to be a practice to linger on the matter as the matter is pending before this court since 2019 and accused has been provided last and final opportunity at every stage and he has been accommodated with dates/adjournment also at every stage and therefore he does not deserve any leniency again, more over accused cannot be granted infinite chances to cross examine the complainant despite the fact that he has been provided to cross examine the complainant twice i.e. at the stage of CE and thereafter allowing the application of u/s 311 Cr.P.C. (by predecessor).

Therefore, the present application filed by the accused u/s 311 Cr.P.C. is rejected.

Ld. counsel for accused is directed to address the final arguments.”

9. The Trial Court in its order has recorded that the Petitioner herein was granted several opportunities between 16.12.2020 and 27.01.2024 to place



his defense on record. The order records that initially the Petitioner's right to cross-examination was closed on 08.05.2023; thereafter on the request of the Petitioner the opportunity was re-opened on 26.08.2023 and the Petitioner cross-examined Respondent/complainant on 27.01.2024 and closed the cross-examination to its satisfaction.

10. The Petitioner thereafter led defense evidence between 22.07.2024 and 07.01.2025 and duly closed its evidence.

11. In these facts when the matter was listed before the Trial Court for final arguments, the Petitioner filed the application seeking recall of the Respondent/complainant for further cross-examination.

12. This Court is satisfied that there is no error in the impugned order dismissing the application seeking recall. The facts set out in the petition for seeking recall were to the knowledge of the Petitioner and no cogent reason has been given for not putting the said questions to the witness when he was being cross-examined in 2023-24. The Petitioner has been granted more than sufficient opportunities by the Trial Court to place its defense on record and thus there has been no denial of opportunities.

13. The complaint case was instituted in the year 2019, the cross-examination of the Respondent stood concluded in the year 2023. The Petitioner has already availed an opportunity of recalling the complainant to the witness in the year 2024. The filing of the underlying application in 2025 for a further recall of the complainant on the date when the matter is listed for final arguments before the Trial Court is without any justifiable reason and is only intended to delay the final judgment.

14. The impugned order was passed on 20.01.2025. The final arguments stand concluded on 30.01.2025 and the judgment has been reserved. This



Court finds no ground for interdicting this process and interfering in the passing of the final judgment.

15. Thus, this Court finds no merit in the present petition and the same is dismissed along with pending applications.

MANMEET PRITAM SINGH ARORA, J
JANUARY 31, 2025/mt/AKT