



\$~32

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(CRL) 595/2025

USHA MAKKAR AND ANOTHER

.....Petitioners

Through: Counsel for Petitioner (appearance
not given).

versus

STATE OF GNCTD AND ANOTHER

.....Respondents

Through: Mr. Anand V. Khatri, ASC (Crl.) with
Ms. Kalpana Jha, Advocate for the
State with W/SI Rashmi, PS
Janakpuri.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **19.02.2025**

CRL.M.A. 5403/2025 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

W.P.(CRL) 595/2025

3. Writ Petition under Articles 226/227 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) has been filed on behalf of the Petitioners, to quash or set-aside the Order dated 09.09.2024 *vide* which the learned JMFC, has closed the right of the Petitioner to cross-examine the Respondent No. 2/Complainant in Case MC 290/2019 titled '*Kamaldeep Makkar vs. Mahender Makkar*'.
4. The Complaint was filed in the year 2012. Thereafter, the matter has been pending for cross-examination of CW-1, the Complainant since



02.07.2022. Despite opportunities being granted for cross-examination, none appeared on behalf of the Respondent (*Petitioner herein*) and consequently, the right to cross-examine CW-1 was closed *vide* Order dated 16.12.2023. Thereafter, on the Application for recall of the Order, the cross-examination of CW-1 was allowed, subject to payment of cost of Rs.5,000/-. However, even thereafter, no cross-examination was done of CW-1 on two subsequent dates and consequently, the right to cross-examine the CW-1 was closed *vide* Order dated 09.09.2024.

5. Aggrieved by the said Order, the present Petition has been filed.

6. **Submissions heard.**

7. The Order itself reflects that the Complaint was filed in 2012 but till date, the cross-examination of the Complainant has not been concluded, which commenced in 2022. The *Petitioner herein* has not been either appearing or seeking adjournments. There is no justification for setting-aside the impugned Order.

8. However, considering the submissions made that the earlier counsel was unwell and now a new counsel has been engaged, one opportunity is given to the *Petitioner*, for cross-examination of CW-1, subject to payment of cost of Rs.50,000/- to the Defendant No. 2.

9. No further opportunity on any ground shall be granted and in case any further adjournment is sought, the right to cross-examine the CW-1 shall stand closed.

10. The Petition is disposed of accordingly.

NEENA BANSAL KRISHNA, J

FEBRUARY 19, 2025/RS