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

+ **CRL.M.C. 1230/2025**

**RISHI MUNI DUBEY**

.....Petitioner

Through: Mr. Rajat Bhardwaj, Ms. Ankita M.  
Bhardwaj, Mr. Saurav Kakroda and  
Mr. Kaustubh Khanna, Advocates

versus

**STATE OF NCT OF DELHI & ANR.**

.....Respondents

Through: Mr. Raghuvinder Verma, APP for the  
State  
Counsel for R-2 (appearance not  
given)

**CORAM:**

**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**

**ORDER**  
**24.02.2025**

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**CRL.M.A. 5475/2025 (exemption)**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

**CRL.M.C. 1230/2025 & CRL.M.A. 5474/2025**

3. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') has been filed on behalf of the petitioner seeking following prayer:

"A. Set aside the Order dated 16.12.2024 in Complaint Case No. 1428 of 2019 passed by the Ld. Judicial Magistrate First Class (NI-Act) – 04, PHC, New Delhi.

B. Grant an opportunity to the Petitioner to conduct the Defense Evidence in Complaint Case No. 1428 of 2019 titled as Aniel Kumar Khanna vs. Mayank Dubey & Ors..."



4. As per office note, steps were not taken by the petitioner for service of respondent no. 2. However, the learned counsel has today appeared on behalf of respondent no. 2. She accepts notice and states that she will file her Vakalatnama during the course of the day.

5. The petitioner herein is aggrieved by the order dated 16.12.2024, passed by learned Magistrate, *vide* which the application filed by him, under Section 311 of the Code of Criminal Procedure, 1973 – seeking recall of the defence witnesses for their examination – was dismissed. Earlier, the learned Magistrate had closed the right of petitioner (accused no. 3) to lead defence evidence *vide* order dated 06.08.2024.

6. The learned counsel for the petitioner further states that the petitioner is a senior citizen aged about 78 years and he has to examine three defence witnesses. The learned counsel for respondent no. 2, on the other hand, points out that the petitioner had been seeking repeated adjournments before the learned Trial Court. However, the learned counsel appearing for both the parties state that since the present petition is concerned with the crucial right of the petitioner to lead defence evidence, which has been closed *vide* the order dated 06.08.2024, this Court may pass appropriate orders in the given set of facts and circumstances.

7. Having heard arguments and perused the case file, and considering the overall facts and circumstances of the case, this Court directs that the petitioner herein will be granted opportunity to lead defence evidence, subject to payment of cost of ₹10,000/- to the respondent, which will be paid before the initiation of defence evidence. However, no unnecessary adjournments shall be sought by the petitioner and granted by the learned



Trial Court. The impugned order is accordingly set aside.

8. Further, it is left to the discretion of the learned Trial Court – as to which date is to be given for leading defence evidence to the petitioner – considering the fact that in the connected matter i.e. CRL.M.C. 1229/2025, the petitioner herein has also been granted an opportunity to cross-examine the complainant.

9. The learned Trial Court is requested to make every endeavour to decide this case within a period of two months from date.

10. In above terms, the present petition is disposed of.

11. The order be uploaded on the website forthwith.

**SWARANA KANTA SHARMA, J**

**FEBRUARY 24, 2025/ns**

*Click here to check corrigendum, if any*