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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 5134/2025 & CRL.M.A. 22208/2025,**
CRL.M.A. 22227/2025

ANAND KUMAR JAINPetitioner

Through: Mr. Gursharan Singh,
Adv. (through VC)

versus

STATE NCT OF DELHI AND ANRRespondents

Through: Mr. Sunil Kumar Gautam,
APP for the State with SI
Shakti, PS Daryaganj.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **31.07.2025**

1. By the present petition, the petitioner challenges the order dated 25.03.2025 (hereafter '**impugned order**'), passed by the learned Trial Court, in Cr. Case 296527/2016, arising out of the FIR No. 202/2005, registered at Police Station Darya Ganj.
2. The learned Trial Court, by the impugned order, dismissed the application filed by the petitioner under Section 311 of the Code of Criminal Procedure, 1973 ('**CrPC**') whereby the petitioner had sought to recall the complainant/ PW-1 for the purpose of cross-examination.
3. The learned Trial Court observed that the examination-in-chief of PW-1 was conducted on 09.04.2013 and the said witness was discharged thereafter. It was noted that the petitioner was given adequate opportunity to cross-examine the material witness but he chose not to avail the same. It was further noted that the statement of the petitioner had also been recorded under Section 313 of the CrPC and the prayer for recall of PW-1 / complainant could not be allowed at such an advanced stage of trial.
4. The FIR was registered way back in the year 2005 in



regard to the allegation that the petitioner and another co-accused person had cheated the complainant for a sum of ₹6,00,000/-.

5. The learned counsel for the petitioner submits that the petitioner is a layman and he was of the firm belief that since he has done nothing wrong and not taken any money from the complainant, he was not required to defend the case. He submits that for this reason, the petitioner had also not engaged any counsel.

6. He submits that it is only after a counsel was engaged by the petitioner that it was realised that cross-examination of the complainant was necessary.

7. Before resorting to consider the facts of the present case, it is essential to note that Section 311 of the CrPC (corresponding to Section 348 of the Bharatiya Nyaya Suraksha Sanhita, 2023) lays down a procedure for summoning or recall of any witness at any stage of trial which can be permitted in order to prevent failure of justice. It is not in doubt that the learned Trial Court has power to summon witness and call for evidence at any stage of trial if it is felt that the same is required for a just decision of the case. The power, however, is not to be exercised in routine manner.

8. In the opinion of this Court, the learned Trial Court has rightly observed that the application has been filed by the petitioner at a highly belated stage and the same appears to be an attempt to delay the conclusion of the trial.

9. It is pertinent to note that the cross-examination of PW-1 was closed way back by order dated 09.04.2013, passed by the learned Trial Court. It was noted that the matter was already eight years old at that stage and needed to be disposed of



expeditiously.

10. A perusal of the order dated 09.04.2013 indicates that although the petitioner was offered the services of a legal aid counsel by the learned Trial Court, however, he had refused the same.

11. It is pertinent to note that more than twelve years have elapsed since the passing of the said order. It cannot be ignored that the FIR pertains to the year 2005 and the trial has still not concluded. On being asked, it is informed that the matter is now listed for final arguments.

12. The only ground pressed for seeking recall of the complainant is that the petitioner mistakenly did not cross-examine the complainant earlier owing to his lack of legal knowledge. In the opinion of this Court, the said argument is without any merit.

13. After having refused to avail the services of a legal aid counsel earlier, the petitioner cannot be allowed to now weaponize his lack of legal knowledge as an excuse to seek recall of the complainant for cross-examination. The Courts cannot come in aid of the litigants who chose to take the proceedings lightly. Allowing the petitioner to reopen the case at such belated stage would inevitably result in a never-ending litigation.

14. In view of the aforesaid discussion, this Court finds no reason to interfere with the impugned order. The present petition is, therefore, dismissed.

15. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

JULY 31, 2025

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