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

+ **CRL.M.C. 5644/2025**

HASEEN

.....Petitioner

Through: Mr. Mehmood Pracha, Mr. Sanawar,
Mr. Jatin Bhatt, Mr. Kshitij Singh,
Mr. Sikander and Mr. Nujhat
Naseem, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Rajat Nair, APP with MR. Dhruv
Pande, Advocate with Inspector
Priyanka, AEKC, Crime Branch
Sunlight Colony.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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18.08.2025

CRL.M.A. 24182/2025 (Exemption)

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

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3. Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*)/Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C'*) has been filed on behalf of the Petitioner for setting-aside the Order dated 19.03.2025 of learned ASJ, North East Delhi District, Karkardooma Courts, New Delhi in Sessions Case No.120/2020 arising out of FIR No. 65/2020 registered at Police Station Dayalpur vide which the right of cross-examination of PW-



24, Dr. C.P. Singh, has been closed.

4. It is submitted in the Application that the further cross-examination of PW-24, Dr. C.P. Singh, Forensic Expert, was closed on 22.01.2025. Thereafter, the Application under Section 311 of Cr.PC read with Section 348 of B.N.S.S., was filed for recall of PW-24, Dr. C.P. Singh but the same was dismissed *vide* Order dated 19.03.2025. The Petitioner thereafter, filed the present Petition to challenge the Order dated 19.03.2025 to recall PW-24, for completion of further cross-examination of PW-24.

5. It is submitted that the learned Trial Court had dismissed the Application under Section 311 Cr.P.C largely on the ground that the Hon'ble Supreme Court of India in the Bail Application of co-accused had directed expeditious disposal of the trial. It was observed that the Advocate of a party being engaged in another Court, cannot be a ground for adjournment especially when the witness is present in the Court.

6. It is submitted that the learned counsel for Petitioner, got held up in this Court and had an important matter to argue on account of which he was unable to appear before the learned Trial Court, to conclude the cross-examination.

7. It is further submitted that the Petitioner was not a party before the Apex Court in which the directions have been given.

8. Furthermore, the mandate of Section 348 of B.N.S.S. has been erroneously imported in the present Case since the trial had commenced on 23.03.2023 i.e. much prior to the enactment of B.N.S.S. Section 311 Cr.P.C provides that where the evidence of the witness sought to be recalled, is essential for the just decision of the case, it may be allowed.

9. It is further explained that there were different counsels, who had



been engaged by the Accused. Insofar as, the availability of different counsels as referred to by the learned ASJ is concerned, 'the cross-examining counsels' were present before this Court in a matter listed in Supplementary List and the cross-examination could not be done.

10. It is, therefore, submitted that the Impugned Order dated 19.03.2025 be set-aside and an opportunity be given to the Petitioner's Counsel, to complete the cross-examination of PW-24.

11. ***Learned counsel on behalf of the State***, has vehemently opposed the Application on the ground that PW-24 was partly cross-examined by the learned counsel on 22.01.2024 and failed to appear thereafter, in the afternoon when the matter was listed for cross-examination. It is an intentional non-appearance before the learned Trial Court.

12. Moreover, it is in the teeth of the directions of the Apex Court, to conclude the trial within six months. This is nothing but a tactic to further delay the conclusion of the trial.

13. It is also submitted that various Applications of the other co-accused are pending and if such endurance is shown to the Petitioner, there would be no end and the trial would not be concluded.

14. As submitted by the learned counsel for the Petitioner, there are number of counsels who have been engaged by the Petitioner and one counsel who was present in the Court on the said date, declined to conclude the cross-examination.

15. Submissions heard and the record perused.

16. Though, it is evident that this is an Order of January, 2025, which was unsuccessfully challenged on 19.03.2025 and there is no explanation by the learned counsel for the Petitioner for delay of about 3-4 months in moving



the present Petition except that he had initially given up the matter, but has again taken it up, but because of the conduct of the counsel, the litigant should not suffer.

17. On a specific query, it has been submitted that the main Investigating Officer is under cross-examination and the second Investigating Officer is yet to be examined. It is also submitted that there are some FSL Reports, for which one or two witnesses will also be required to be examined. The trial is still ongoing and the Prosecution evidence is still being recorded. Mr. Nair has given a statement before the Apex Court that trial is likely to be concluded in three months. The right of expeditious trial needs also to be balanced with the fair trial.

18. Since PW-24, has been partly cross-examined, Ld. Counsel for the Petitioner submits that he would conclude the remaining cross examination of PW-24 in one hour, one opportunity is given to the Petitioner, to conclude the cross-examination of PW-24.

19. The learned Trial Court may give one date on which the cross-examination of PW-24 shall be concluded. In case the matter is adjourned for whatsoever reason, no further opportunity shall be given for cross-examination of PW-24.

20. With these observations, the Petition is disposed of.

NEENA BANSAL KRISHNA, J

AUGUST 18, 2025/RS