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

+ CRL.M.C. 6794/2025, CRL. MA 28562/2025 (Stay) & CRL. MA
28561/2025 (exemption)
SH. ROHTASH KUMARPetitioner

Through: Mr. Anurag Singh, Advocate

versus

SH. RAMESH KUMARRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **22.09.2025**

1. The present petition has been preferred against the order dated 23.05.2025 and 08.08.2025 passed by Ld. JMFC, (NI Act), South East, Saket Court, New Delhi in the matter bearing Ct. Case No.1237/2019 titled as "*Ramesh Kumar v/s Rohtash Kumar*", whereby the Ld. Trial Court closed the opportunity of the petitioner to cross examine the respondent and further dismissed the application filed by the petitioner U/s 348 BNSS to recall the respondent for further cross examination respectively.

2. Learned counsel for the petitioner submits that the petitioner only seeks one effective opportunity to complete the cross-examination of CW-01. The delay in concluding the cross-examination was not deliberate but occasioned due to genuine and unavoidable circumstances. The petitioner had been facing serious health issues and underwent stomach surgeries in February 2025 and April 2025. He was admitted to hospital on 07.02.2025, which rendered him unable to appear and properly assist his counsel. On



05.12.2024, he was away for business reasons, and on 23.05.2025, the main counsel had to rush to District Court, Faridabad, due to which the proxy counsel, who was not well acquainted with the facts of the case, could not effectively assist the trial court. Furthermore, on 05.05.2022 the cross-examination was deferred at the instance of the complainant to produce certain documents, and on 08.11.2023, as those documents were still not produced, the petitioner was constrained to defer further cross-examination in order to confront CW-01 with certified copies of relevant documents, which he now possesses.

3. It is further submitted that the petitioner has been alleged to have taken a loan of Rs. 3,50,000/-, whereas the complainant himself has admitted earning only Rs. 22,000/- per month. The documents now available with the petitioner are necessary to confront CW-01 and are crucial for the just adjudication of the case. It is emphasised that cross-examination is an essential right of the petitioner, and denial of such opportunity would amount to violation of the principles of natural justice.

4. Having considered the submissions of learned counsel for the petitioner, this Court is not persuaded to interfere with the impugned order. It is not in dispute that the petitioner was granted multiple opportunities to complete the cross-examination of CW-01. The record clearly reflects that adjournments were sought by the petitioner on 31.05.2024, 21.08.2024 and 05.12.2024. On 05.12.2024, the trial court even recorded that a *final opportunity* was being granted for the purposes of cross-examination.

5. The impugned order dated 23.05.2025 further shows that, despite the earlier indulgence, yet another adjournment was sought on the ground that the main counsel had to rush to the District Court at Faridabad. The trial



court, in these circumstances, observed that sufficient and repeated opportunities had been afforded to the petitioner, and accordingly, closed his right to further cross-examine CW-01. This observation cannot be said to be either arbitrary or perverse, particularly when the record demonstrates that despite repeated adjournments, the petitioner failed to utilise the opportunities provided.

6. The contention raised by the petitioner regarding his health condition and the alleged lack of coordination with counsel is not convincing. Firstly, the medical ground relied upon pertains to hospitalisation and surgeries in February and April 2025, whereas the petitioner had defaulted in availing opportunities prior thereto, including on 31.05.2024, 21.08.2024 and 05.12.2024. Secondly, even on 23.05.2025, when the matter was listed, the petitioner was represented by proxy counsel, and the adjournment sought was solely on account of the main counsel's absence. Thus, the explanation of ill health does not satisfactorily explain the repeated delays in completing the cross-examination.

7. This Court also cannot overlook the fact that contradictory explanations have been advanced by learned counsel for the petitioner in an attempt to justify the non-completion of cross-examination. On the one hand, it is claimed that health reasons prevented the petitioner from assisting his counsel whereas on the other hand, it is urged that the absence of the main counsel or lack of coordination between counsels caused the delay. Such shifting stands further weaken the petitioner's case and demonstrate that the failure to conduct cross-examination was not due to any unavoidable cause, but rather due to repeated laxity and dilatory tactics.

8. In **Satbir Singh v. State of Haryana**, 2023 INSC 786, the Supreme



Court referred to the decision in *Harendra Rai v. State of Bihar*, 2023 SCC OnLine SC 1023, wherein a three-Judge Bench held that Section 311 of the CrPC should be invoked only when it is “essential for the just decision of the case.”

9. In light of the above, this Court is of the view that the trial court has already exercised sufficient leniency and afforded repeated opportunities to the petitioner to cross-examine CW-01, including granting him two *final opportunities*. The closure of his right to further cross-examine cannot be faulted with and is fully justified in law. Cross-examination is undoubtedly an important right, but it cannot be permitted to be exercised in perpetuity, nor can the judicial process be held hostage to repeated adjournments at the instance of a negligent litigant. Perusal of the impugned order reveals that matter was at the stage of remaining cross examination of CW-1 since 26.02.2024 and multiple adjournments were granted including final opportunities granted twice, and thus left with no option right of cross examination was closed.

10. Accordingly, finding no illegality or perversity in the impugned order dated 23.05.2025, the present petition stands dismissed.

RAVINDER DUDEJA, J.

SEPTEMBER 22, 2025

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