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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.REV.P. 417/2025, CRL.M.A. 31377/2025, CRL.M.A.
31378/2025, CRL.M.A. 31379/2025
SUSHEEL ALIAS SONU & ANR.Petitioners
Through: Ms. Mumtaz Ahmad, Advocate.
versus
STATE OF NCT OF DELHIRespondent
Through: Mr. Amit Ahlawat, APP for State
with SI Vaibhav Singh, PS-Sarita
Vihar.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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17.10.2025

1. The Petitioners are implicated in FIR No. 0157/2018, registered at P.S. Sarita Vihar under Sections 385, 506 and 34 of the Indian Penal Code, 1860¹. Their applications under Section 311 of Code of Criminal Procedure, 1973², to recall PW-10 and PW-12 were allowed, subject to payment of certain cost. However, due to the failure to deposit the costs, the Trial Court, on 16th September 2025, passed the following order:

“There are two application filed u/s 311 CrPC on behalf of the accused persons dated 07.05.2025 for recalling PW10 and dated 03.07.2025 for recalling PW12 were allowed, subject to deposit of cost respectively and then the witness would be summoned. But since then, no cost was paid by the accused persons despite opportunities that is why PWs were not called since May 2025. It appears that the accused persons are not interested to call the witness for cross-examination. Since the case is pertaining to 2018 and the charge was framed in 2019. since then the case has been going-on for prosecution evidence for the last more than 6 years. Moreover, two opportunities are already given to the accused persons to pay the cost for recalling the witness. The gap between the last opportunity and the today's date is about two months time but till today no

¹ “IPC”

² “CrPC”



cost was paid. It appears that accused persons are not interested to cross-examine PW10 and PW12 and adapting delay dialectic tactics.

Hence, the opportunity to recall the witness is stands closed and the matter be proceeded further.

Put up for SA on 08.10.2025.”

2. Counsel for the Petitioners regrets the oversight in failing to deposit the cost within the prescribed time and acknowledges the delay caused. She further undertakes to deposit the cost as directed by the Trial Court within three days.
3. In light of the above, and considering that the Petitioners’ right to recall the witnesses had been earlier allowed but subsequently closed by the impugned order dated 16th September 2025, the said order is hereby set aside.
4. However, it is pertinent to note that this Court does not find any manifest error in the approach adopted by the Trial Court. The present relief is granted to the Petitioners solely in the interest of justice. Taking into account the further delay caused by the Petitioners, an additional cost of INR 2,500/- is imposed, which shall be deposited with the Delhi Legal Services Authority.
5. The Trial Court shall now fix the date for the cross examination of PW-10 and PW-12.
6. With the above directions, the petition is disposed of along with the pending applications.

SANJEEV NARULA, J

OCTOBER 17, 2025

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