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

+ **CRL.M.C. 8445/2025 & CRL.M.A. 35273/2025,**
CRL.M.A. 35274/2025

FAKIRCHAND

.....Petitioner

Through: Mr. Vishal Arun Mishra
and Mr. Kritagya Handa,
Advts.

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: Mr. Ritesh Kumar Bahri,
APP for the State with Mr.
Lalit Luthra, Adv. with SI
Nitesh Mahiya, PS
Sagarpur.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

27.11.2025

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1. By the present petition, the petitioner challenges the order dated 19.11.2025 (hereafter '**impugned order**'), passed by the learned Trial Court in SC No. 386/2022, thereby dismissing the petitioner's application under Section 311 of the Code of Criminal Procedure, 1973 ('**CrPC**').

2. The petitioner is named as an accused in FIR No. 211/2021, and was examined as a defence witness (DW-1) on 12.11.2025.

3. On an earlier occasion, the petitioner along with other co-accused persons, had filed a petition being CRL.M.C. 7951/2025, before this Court, challenging the order dated 03.11.2025 passed by the learned Trial Court in SC No. 386/2022. By the order dated 03.11.2025, the learned Trial Court had closed the defence evidence noting that this Court in Bail Application No.



1821/2025, had directed the learned Trial Court to conclude the proceedings within 02-03 months. The learned Trial Court noted that best efforts were being made to conclude the trial as per the directions passed by this Court.

4. Consequently, the learned Trial Court, noting that the defence does not seem to be interested in producing or completing the defence evidence, had closed the petitioner's as well as the other accused persons' evidence by the said order dated 03.11.2025.

5. Thereafter, by order dated 11.11.2025 passed in CRL.M.C. 7951/2025, this Court had allowed the petitioner and other accused persons to examine themselves as defence witness in order to ensure fair trial and reaching a just decision, and had set aside the order dated 03.11.2025 passed by the learned Trial Court whereby the defence evidence of the petitioner as well as the other accused persons' were closed. While doing so, this Court, however considered that time bound directions have been passed by this Court as well as the Hon'ble Apex Court in the present case, and directed the petitioner and other accused persons to examine themselves without seeking any further opportunity and listed the matter before the learned Trial Court on 12.11.2025.

6. Undisputedly, the petitioner was examined on 12.11.2025 as defence evidence (DW-1).

7. The matter was thereafter listed for final arguments on 19.11.2025.

8. In the meantime, the petitioner filed an application under Section 311 of the CrPC on 14.11.2025 seeking his recall and re-



examination. It was stated that the petitioner is an aged person suffering from multiple age-related ailments, and therefore, could not properly comprehend or respond to the questions put at the time of cross-examination. Further, in his application under Section 311 of the CrPC, the petitioner stated that after the cross-examination, he realised the necessity of producing documentary and digital evidence – including copies of complaints made by him and his daughter-in-law along with video conference evidencing complainant's aggressive and unlawful conduct.

9. It is not in doubt that in accordance with Section 311 of the CrPC, the Court may at any stage of any inquiry, trial or other proceeding, recall or re-examine any person already examined if the evidence appears to be essential to the just decision of the case. However, at the same time, it is pertinent to note that the present application only seems as an indirect attempt to unnecessarily protract the proceedings without any demonstrable necessity.

10. As noted above, the defence evidence was closed by the learned Trial Court *vide* order dated 03.11.2025 while specifically noting that the defence did not seem to be interested in producing the defence. Thereafter, this Court by order dated 11.11.2025 [in CRL.M.C. 7951/2025], while setting aside the order dated 03.11.2025 and granting opportunity to the petitioner as well as other accused persons' to examine themselves had noted that the present case was time bound and was supposed to be disposed of at the earliest. However, with a view to ensuring a fair trial, this Court had given the accused persons including the petitioner, an opportunity to examine themselves without seeking



any further opportunity. The learned Trial Court was also directed to examine the accused persons without granting any further opportunity to them in this regard. The petitioner undisputedly was examined on 12.11.2025 whereafter the matter was listed for final arguments on 09.12.2025.

11. As noted above, in the meantime on 14.11.2025, the petitioner filed an application under Section 311 of the CrPC citing reasons such as his age and inability to understand the questions and respond appropriately as well as production of documentary and digital evidence as a ground to seek recall and re-examination. The petitioner has urged that it was only after the cross-examination that the petitioner realized that he needed to produce certain documentary and digital evidence. It has not been demonstrated why such documents were not produced on earlier occasions, and despite being granted opportunity by this Court.

12. From the facts as narrated above, the application, in the opinion of this Court, is nothing but an attempt to delay the proceedings and was therefore, rightly dismissed by the learned Trial Court. Such application by the petitioner is only an attempt to protract the proceeding without any justifiable reason, and appears to be a tactic employed by the petitioner to improve his case.

13. If the contention of the petitioner is accepted then no trial will ever complete and after appearing as witness application will be filed for recall on grounds such as raised in present petition. Witness claiming ignorance and not able to comprehend cannot be a ground for re-examination.



14. The same will give opportunity to fill lacuna's after taking legal advice. Moreover, allowing such requests will make mockery of judicial discipline. Time bound disposal in the present case has been directed by not only this Court but also by the Hon'ble Apex Court.

15. I, therefore, find no merit in the present petition. The present petition is accordingly dismissed with payment of cost of ₹30,000/- to be paid by the petitioner to the Delhi High Legal Services Committee within a period of four weeks from date.

AMIT MAHAJAN, J

NOVEMBER 27, 2025 / 'KDK'