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

+ **CRL.M.C. 9102/2025 & CRL.M.A. 38101/2025**

MAHESH VERMA

.....Petitioner

Through: Mr. Rajesh Anand, Ms. Harleen Kaur,
Mr. Eshaan Seth and Ms. Ayushi
Advs.

versus

STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Hitesh Vali, APP for the State
with Ms. Pragati Gupta, Adv with SI
Jitender Kumar, P.S. Nangloi.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

19.12.2025

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1. This petition assails the order dated 29th November, 2025 passed by ASJ-02, West District, Tis Hazari Court, Delhi in Case no. 57684/2016 titled as “*State vs. Mahesh Verma & Ors.*” arising out of FIR no. 410/2015 P.S. Nangloi whereby Petitioner’s application under Section 311 of the Code of Criminal Procedure, 1973¹ seeking recall of PW-2 (prosecutrix) for further cross-examination has been declined.

2. The Petitioner (husband of the prosecutrix) is one of the accused in the case and is facing charges for serious offences under Sections 498A, 380, 354, 354B, 342, 376, 506 read with Section 34 of the Indian Penal Code, 1860.²

3. The trial has been pending for a considerable period of time and has

¹ “CrPC”

² “IPC”



now reached an advanced stage.

4. The Petitioner's right to cross-examine the prosecutrix was closed by the Trial Court on 6th February, 2025 on account of the absence of the Petitioner's counsel. It is the Petitioner's case that the matter was originally listed for 5th February, 2025, which was declared a holiday on account of the General Elections, 2025, and was therefore taken up on 6th February, 2025. It is contended that the Petitioner's counsel inadvertently noted an incorrect next date in his diary and was consequently unable to appear before the Trial Court on that date. As a result, the opportunity to further cross-examine PW-2 was closed and she was discharged.

5. Thereafter, the proceedings continued and other prosecution witnesses were examined and duly cross-examined by the Petitioner's counsel. Subsequently, on 4th August, 2025, the Petitioner filed an application under Section 311 CrPC seeking recall of PW-2, which was dismissed by the impugned order.

6. The Court has heard the counsels for the both sides. Indeed, the trial has been protracted and has spanned nearly a decade. For this reason, as well as the fact that the prosecutrix has been sufficiently cross-examined by the Petitioner on multiple dates and that there was a delay on part of the Petitioner in filing an application for recall of the Prosecutrix, the Trial Court did not find any justifiable ground to allow the Petitioner's request. These aspects have also been emphasized by Mr. Hitesh Vali, APP for the State, to defend the impugned order. He submits that the lapse on the part of the Petitioner's counsel cannot, by itself, justify recall of the prosecutrix, particularly having regard to the gravity of the allegations. It is further emphasized that any indulgence by this Court is likely to further cause delay



in the progress of the trial.

7. The observations made by the Trial Court as well as the submissions advanced by Mr. Vali have merit. At the same time, it is apparent from the record that although the prosecutrix had been cross-examined on multiple dates, her cross-examination had not concluded when the opportunity was closed on 6th February, 2025. The last effective cross-examination had taken place on 6th December, 2024. The closure of evidence was due to the absence of the Petitioner's counsel on a single date, which is sought to be explained as an inadvertent error in noting the date.

8. While the delay of several months in filing the application for recall is a matter of concern, it is equally relevant that during this period the trial did not remain stagnant and the Petitioner continued to participate in the proceedings, including cross-examination of other prosecution witnesses. Considering the seriousness of the charges and the relevance of the prosecutrix's testimony to the prosecution case, denial of an opportunity to complete her cross-examination may have a bearing on the fairness of the trial and may gravely prejudice the defence.

9. Mr. Rajesh Anand, counsel for the Petitioner, has assured this Court that the cross-examination of the prosecutrix shall be concluded on a single date without seeking any adjournment, and that he shall personally remain present to conduct the cross-examination on the date fixed by the Trial Court.

10. Having regard to the aforesaid circumstances, the impugned order dated 29th November, 2025 is set aside. The Petitioner is permitted to further cross-examine the prosecutrix on a single date to be fixed by the Trial Court. On the date so fixed, the State shall ensure the presence of the prosecutrix.



11. With the above directions, the petition is disposed of.
12. However, for the delay caused, cost of INR 5,000/- is imposed on the Petitioner, to be deposited with the Delhi Police Welfare Fund within a period of two weeks from today. Proof of payment be placed on record before the concerned Trial Court.
13. This order be given *dasti* under the signature of the Court Master.

SANJEEV NARULA, J

DECEMBER 19, 2025/ng