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

\# **CNR No. DLHC010412132026**

\+ **CRL.M.C. 6478/2026 & CRL.M.A. 27088/2026**

MEWA LAL AND ORS

.....Petitioner

Through: Mr. Arvind Kumar, Adv.

versus

STATE NCT OF DELHI AND ANR

.....Respondent

Through: Mr. Tarang Srivastav, APP for State.

CORAM:
HON'BLE MR. JUSTICE ARUN BHARDWAJ

O R D E R

% 05.10.2026

1. The present petition was filed challenging the order dated 13.05.2026 whereby an application under Section 91 of Cr.P.C read with Section 311 Cr.P.C was allowed by the trial court vide order dated 13.05.2026 and some photographs and documents were taken on record.

2. The order dated 03.07.2026 is also under challenge as per which the revisional court granted liberty to withdraw the revision as the same was found to be not maintainable.

3. On the previous date, Learned APP for the State had submitted that in the present case, the application of the complainant was forwarded by learned APP and therefore, the impugned order is not assailable. The counsel for the petitioner had submitted that the petitioner would have no

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objection if the documents are taken on record by way of a supplementary charge-sheet subject to their right to cross-examine the witnesses for the authenticity and contents of the said documents.

4. Today this Court is informed that the supplementary chargesheet has been filed on 14.09.2026 and in view of the same, the objection does not survive anymore.

5. Notwithstanding the aforesaid developments, it may be recorded here that in the case of ***Amarjit Singh v. The State and Others : (1981)19 DLT 443***, it was held as under:

> *"6. I have considered the matter. The Supreme Court in Narayan Rao v. State of Andhra Pradesh A.I.R. 1957 S.C. 737, held that the word "shall" in sub-section (4) of S. 173 Cr. P.C. (old) is not mandatory but directory. It therefore appears to me quite clear that the provisions of sub-section (5) of S. 173 of the Code are only directory and not mandatory in nature and they do not indicate an intention that no documents or witnesses can be produced once the challan is filed unless it is by way of a supplementary one under sub-section (8) thereof. I am tn respectful agreement with the views propounded in C.S. Pachiappa (supra), that in the course of the trial, if the prosecution thinks it necessary to file additional documents or statements of witnesses on whom it proposes to reply, nothing in S. 173 prevents it from doing so. The only requirement is that copies thereof must be given in advance to the accused. The trial court cannot be rendered helpless in the matter of receiving any material relevant and admissible evidence at any stage which the police has not forwarded with its report or does not propose to rely upon, or was not available at the time of the report or even if available, their copies were not supplied to the accused; Raghnnath (supra). In Jhagru Tiwari v. State of West Bengal, 63 C.W.N. 454, it was held that there is nothing in law which would prevent the prosecution from producing or the court from examining as a witness in the case a person*

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whose name has not been included in the police report made or whose statement has not been so furnished. In the State (Rameskwar Tewari) v. Jagadish Pandey, A.I.R. 1958 Cal. 311, it was observed that the court in the discharge of its judicial function must always be left free to exercise its discretion in the matter allowing parties to produce evidence. The procedure should be construted in such a manner as not to deprive the court of that discretion. Neither in S. 173 nor in any other provision of the code is there any such disabling provision as prevents the prosecution from filing additional documents or statements of witnesses on whom it proposes to rely. What value is to be attached to such additional documents which are produced at a late stage will always depend upon the peculiar circumstances of each case; vide In re Shantilal, (supra).”

6. In view of the same, this Court is of the opinion that there was no infirmity in the order passed by the learned Magistrate.

7. Be that as it may, considering the developments in the present dispute, the petition is disposed of being infructuous now.

ARUN BHARDWAJ, J

OCTOBER 5, 2026/Pa

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