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

CNR No. DLHC010166992022

+ **CRL.REV.P. 257/2022**

LALIT PANDEY

.....Petitioner

Through: **Mr. Aaditya, Advocate.**

versus

SANJAY AGARWAL

.....Respondent

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **14.09.2026**

1. The petitioner seeks to challenge the order dated 01.03.2021, whereby his application under Section 311 Cr.P.C. came to be rejected. It has come on record that the right to cross-examine the complainant was closed on 30.03.2019.

2. Learned counsel appearing for the petitioner submits that, on the said date, he was held up in another Court.

3. The Supreme Court has time and again cautioned that witnesses cannot be allowed to be recalled in a routine manner merely on the ground that the cross-examination was not properly conducted. Reliance can be placed upon ***State (NCT of Delhi) v. Shiv Kumar Yadav & Anr.***¹ wherein it was observed as under:

“...witnesses cannot be expected to face the hardship of appearing in

¹ (2016) 2 SCC 402



court repeatedly, particularly in sensitive cases such as the present one. It can result in undue hardship for victims, especially so, of heinous crimes, if they are required to repeatedly appear in court to face cross-examination. xxx

27. ...Undoubtedly, fair trial is the objective and it is the duty of the court to ensure such fairness. ...Mere observation that recall was necessary “for ensuring fair trial” is not enough unless there are tangible reasons to show how the fair trial suffered without recall. Recall is not a matter of course and the discretion given to the court has to be exercised judiciously to prevent failure of justice and not arbitrarily. While the party is even permitted to correct its bona fide error and may be entitled to further opportunity even when such opportunity may be sought without any fault on the part of the opposite party, plea for recall for advancing justice has to be bona fide and has to be balanced carefully with the other relevant considerations including uncalled for hardship to the witnesses and uncalled for delay in the trial. Having regard to these considerations, we do not find any ground to justify the recall of witnesses already examined.”

4. There is a huge pendency of Section 138 Negotiable Instruments Act cases across Delhi. The parties as well as the learned counsel are expected to extend full co-operation in expeditious disposal of such matters. Once the witness is available, the examination/cross-examination ought to take place on the same date. Requests for repeated adjournments have consistently been deprecated.

5. Bearing in mind the fact that the matter is pending since 2018, the Court finds no sufficient ground to recall the witness, who has already been examined. Accordingly, the petition fails and is hereby dismissed.

PURUSHAINDR KUMAR KAURAV, J

SEPTEMBER 14, 2026

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