

ITEM NO.58

COURT NO.2

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s).3256/2017

(Arising out of impugned final judgment and order dated 20-06-2016 in CRLMC No. 1359/2016 passed by the High Court of Delhi at New Delhi)

KRISHAN KUMAR SOOD

Petitioner(s)

VERSUS

CENTRAL BUREAU OF INVESTIGATION

Respondent(s)

Date : 06-10-2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) Mr. Rakesh Kr. Khanna, Sr. Adv.
Mr. Devendra Grover, Adv.
Ms. Shefali Jain, Adv.
Mr. Mohit Nagar, Adv.
Ms. Vaishali Gupta, Adv.
Mr. Rajeev Singh, AOR

For Respondent(s) Mr. Ranjit Kumar, SG
Mr. Yashank P. Adhyaru, Sr. Adv.
Mr. Mukul Singh, Adv.
Mr. Rajiv Nanda, Adv.
Mr. Mukesh Kumar Maroria, AOR

UPON hearing the counsel the Court made the following
O R D E R

We have heard learned counsel for the parties.

An application was moved by the petitioner under Section 311 of the Code of Criminal Procedure for recalling a witness being Mr. G.P. Mishra, PW-53 who had made a statement against the petitioner while being cross-examined by Mr. Arvind Pandalai.

We are told that the witness was in the witness box when the application was moved.

Learned Trial Judge rejected the application and the dismissal of the application was upheld by the High Court.

It is under these circumstances that the petitioner is before us.

It appears to us that the statement made against the petitioner was made for the first time when the witness, PW-53 was cross-examined by Mr. Pandalai. No such allegation was made against the petitioner at any other stage except perhaps at the stage of recording of statement under Section 161 of the Code of Criminal Procedure. This statement, however, cannot be used against the petitioner.

Under these circumstances, we are of the view that in terms of Section 311 of the Code of Criminal Procedure, the application filed by the petitioner was maintainable. That being the position, the orders passed by the Trial Judge as well as the High Court are set aside. The application filed by the petitioner for recalling the witness, PW-53 ought to have been allowed. The witness may be recalled for further cross-examination by the petitioner.

We make it clear that the cross-examination be limited to the issue dealt with in the statement made in

the cross-examination by Mr. Pandalai.

The special leave petition stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
COURT MASTER