



2026:DHC:8583



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 29.09.2026

CNR No. DLHC010470272026

+ CRL.M.C. 7331/2026, Crl.M.A. 30668/2026

VIKAS KUMAR & ORS.

.....Petitioners

Through: Mr. Pramod Tripathi, Mr. Prince and
Mr. Manthan Tripathi, Advocates.

versus

STATE OF NCT DELHI

.....Respondent

Through: Ms. Priyanka Dalal, APP for State.

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The present petition has been filed by the petitioners under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), seeking to set aside the impugned order dated 15.05.2026 passed by the learned Additional Sessions Judge-02, North-East, Karkardooma Courts, Delhi, whereby the right of the petitioners to cross-examine three prosecution witnesses was closed.
2. The petitioners are the accused in SC No. 265/2022, arising out of FIR No. 0224/2021, registered under Sections 307 and 34 of the Indian Penal Code, 1860 (IPC) at P.S. Dayal Pur.
3. The petitioners state that they have been diligently participating in the trial without default. On 15.05.2026, when the matter was listed for prosecution evidence, the other petitioners were present in person, and the petitioner no. 2 was granted exemption from personal appearance for the day



2026:DHC:8583



on account of his mother's hospitalization. On that date, the cross-examination of three prosecution witnesses, namely, Sh. Ashutosh Dayal, Ms. Kavita, and Sh. Braham Prakash, whose examination-in-chief had already been recorded at an earlier hearing, was taken up.

4. It is submitted by the learned counsel for the petitioners that he sought a brief accommodation to review the examination-in-chief and prepare for an effective cross-examination, which was necessary for a meaningful defence. However, the Trial Court declined the said request, on the ground that the witnesses had been waiting since morning and that only “one opportunity” was to be granted as a condition attached to the order allowing an earlier application under Section 311 of the Code of Criminal Procedure, 1973 (Cr.P.C.), by which the said witnesses had been recalled.

5. Learned counsel for the petitioners further submits that he immediately thereafter expressed readiness to proceed with the cross-examination; however, the said request was also declined.

6. This Court does not appreciate the conduct on behalf of the petitioners, as taken note of in the impugned order, which records that learned counsel for the petitioners had been repeatedly seeking an adjournment since the morning and, when asked at 01:00 PM to commence the cross-examination, stated that he was not prepared.

7. It is noticed that the Trial Court had already allowed the recall of the three witnesses for cross-examination under Section 311 of the Cr.P.C. Nevertheless, this Court is of the view that permitting the completion of the cross-examination would subserve the ends of justice better than sustaining its closure, the right to cross-examine prosecution witnesses being an integral facet of a fair trial.



2026:DHC:8583



8. The only countervailing prejudice is the burden of requiring the witnesses to attend again and the risk of further delay, both of which can be adequately addressed by suitable directions.

9. During the course of the hearing, Mr. Pramod Tripathi, learned counsel for the petitioners, unequivocally undertakes that he shall complete the cross-examination of all three witnesses on the date fixed by the Trial Court. The said statement is taken on record. He further states that the petitioners shall bear the costs/expenses that may be entailed in securing the presence of the witnesses again for the said purpose.

10. In the light of the aforesaid undertaking, the impugned order dated 15.05.2026 is set aside insofar as it closes the right of the petitioners to cross-examine the aforesaid three witnesses. The said witnesses shall be recalled for cross-examination.

11. The Trial Court shall fix an early date for their cross-examination, on which date, the cross-examination shall be concluded, as undertaken by the learned counsel for the petitioners.

12. The petitioners shall bear the reasonable expenses incurred by the witnesses in attending, as determined by the Trial Court.

13. It is directed that no adjournment shall be granted to the petitioners on the date so fixed by the Trial Court for cross-examination.

14. The present petition is disposed of in the above terms. The pending application also stands disposed of.

SACHIN DATTA, J

SEPTEMBER 29, 2026/at/sd