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

+ CRL.M.C. 748/2011 & CrI.M.A. 2862/2011 (stay)

KIRAN MAHAJAN

..... Petitioner

Through Mr. V. Srivastava, Adv.
versus

STATE

..... Respondent

Through Mr. Mukesh Gupta, APP for State
with SI Rajeshwar, PS Conn. Place.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

30.09.2011

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Learned counsel for the Petitioner contends that he is aggrieved by the part of the order dated 28th September, 2010 whereby the statements recorded under Section 161 Cr.P.C. of Rajpal, Ashutosh Kumar, D.K. Mishra and Security Guards have not been supplied to him. Learned counsel further states that merely on the statement of the Investigating Officer the Trial Court could not have come to the conclusion that no statements were recorded and it has passed the order without looking into the case diaries.

The order dated 28th September, 2010 is amply clear in so far as it records the statement of the Investigating Officer that these persons were not examined under Section 161 Cr.P.C. and their statements were not recorded.

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Be that as it may, it is for the Trial Court to conduct the trial in the manner it thinks fit. Besides assuring a fair trial to the accused it has also to ensure that no dilatory tactics are adopted by any of the parties. It is not necessary that the Trial Court should cross check and verify the statement of the Investigating Officer every time by looking into the case diaries. The Petitioner has placed no material on record to show that prima facie the statement of the Investigating Officer is incorrect. Since it is stated on behalf of the State, the statements were not recorded under Section 161 Cr.P.C., they were not required to be supplied. In the absence of the statements of the witnesses having not been recorded no such statements can be provided to the Petitioner. I find no abuse of the process of the Court, warranting interference by this Court.

Petition and application are dismissed.


MUKTA GUPTA, J

SEPTEMBER 30, 2011
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