

SC 44525/2015  
STATE Vs. DHIRENDER KUMAR TYAGI @ Nitu  
FIR No. 128/2013  
(Sonia Vihar)

10.09.2025

Present: Sh. Pradeep Kumar, Ld. Substitute Addl. PP for the State.

Accused Dhirender Kumar Tyagi in person.

IO Retd. ACP Virender Singh in person.

Inspt. Rajpal Singh is not present.

1. As per report from the office of DCP, PW Radha @ Shashi could not be served. Summons to her over these years have been received back unserved. Hence, she is **dropped** from the list of witnesses.

2. PW43 Inspt. Rajpal Singh is examined, cross-examined and discharged.

3. At this stage, counsel for accused moved an application under Section 311 of Cr.P.C.

4. Arguments heard on the application filed under Section 311 of Cr.P.C. by counsel for accused for recalling of PW 6 Urmila Tyagi for cross examination. It is submitted that cross examination of PW 6 Urmila Tyagi who is the main witness in this case was closed on 06.04.2018, however, counsel for accused was not available on that day, hence the right was closed but cross examination of this witness is essential. Further, this Hon'ble Court has already allowed recalling of PW 9 ASI Irshad Ahmad in 2025 at the request of Ld. APP for the State, hence it is prayed that the present application be allowed.

5. Ld. APP for the State has objected to the said

application.

6. I have heard both the sides and gone through the record.

7. PW 6 Urmila Tyagi has already been cross examined on 20.11.2015 and 15.07.2017. On 17.07.2015, her cross examination was deferred as main counsel of accused was not available. Thereafter, she was cross examined on 20.11.2015 and her further cross examination was deferred as it was stated by Ld. counsel for the accused that he is not available after lunch, which is mentioned in the order sheet. PW 6 Urmila Tyagi was further cross examined on 15.07.2017 in part and her further cross examination was deferred at the request of Ld. Defence counsel. On 06.04.2018, right to cross examination was closed as counsel for accused was not available.

8. It is pertinent to mention here that PW 6 Urmila Tyagi was present before the Court on 12.02.2016 but was discharged unexamined as main counsel was not present.

9. Further, she was present before the Court on 05.06.2017 also but was discharged unexamined as main counsel of accused was not available. Further, on 13.09.2017, she was again present but was discharged unexamined as main counsel of accused was not present. Again on 28.11.2017, she was discharged unexamined as main counsel of accused was not available and right to cross examination was ultimately closed on 06.04.2018.

10. In view of that adjournments already taken in this

case for cross examination of PW 6 Urmila Tyagi and in view of the fact that she has already been cross examined in detail before this Court, there is no ground for allowing this application. Further, only because she is a crucial witness does not imply she has to be called on a mere application being filed.

11. Further, the present application has been filed after considerable delay and laches. Right of cross examination of this witness was closed on 06.04.2018 and this application is filed today i.e. 10.09.2025, there is no plausible explanation given in the application for filing application with such considerable delay.

12. Further, the incident is of the year 2013 and PW 6 Urmila Tyagi was examined in 2015 to 2018. Human memory is apt to blur with the passage of time, calling a witness after 12 years would be injustice to the witness as well as to the trial of the case. The purpose of examining a public witness at the earliest is that they depose from their memory being eye witnesses. Calling a witness after 12 years, until and unless there is extremely cogent ground, is in the opinion of this Court is not justified.

13. It is further submitted by counsel for the accused that this Court has allowed re-examination of PW9 also at the request of ld. APP. However, PW9 was recalled on altogether different grounds. It is mentioned in order sheet dt. 07.04.2025 that PW Md. Hanif Khan from Crime Team had expired but as scene of crime report was to be proved, hence Ld. APP sought permission to call Ct. Irshad Ahmad (PW9) who had signed on

the scene of crime report. Hence, calling PW9 was on altogether different grounds and there can be no ground for claiming parity by the counsel in this applicatin.

14. In view of the overall circumstances, the application under section 311 of Cr.P.C for recalling PW 6 Urmila Tyagi is hereby **dismissed**.

15. IO Retd. ACP Virender Singh is only left to be examined in this case. He be summoned for the NDOH.

16. Put up for PE on **17.09.2025**.

**(Twinkle Wadhwa)**  
**ASJ-02(NE)/ KKD/Delhi**  
**10.09.2025/nk**