

SC NO. 275/2022
STATE VS. NAUSHAD & ANR.
FIR NO. 601/2022
PS: NEW USMANPUR

04.02.2025

Present: Sh. Sarfraz Asif, Ld. Counsel for the applicant/accused Kamruddin.
Sh. F. M. Ansari, Ld. Addl. PP for the State.

1. Vide this order, I shall dispose of the application u/s. 311 of CrPC/348 BNSS filed on behalf of the applicant/accused Kamruddin.

2. Ld. Counsel for the accused has filed an application on behalf of the applicant/accused Kamruddin u/s. 348 BNSS for recalling the PW-2 Salma for cross-examination stating that on dated 28.08.2023, the PW-2 Salma was examined in chief, but cross-examined as Nil by Ld. Proxy counsel for accused Kamruddin, but some relevant questions remained unasked from the said witness, which is very relevant to decide the fate of the present case.

3. It is further submitted that the applicant/accused Kamruddin has changed his counsel after the examination of PW-2 and the applicant is required to cross-examine PW-2 again, as, she was discharged without asking multiple relevant and necessary questions and prayed for summoning of PW-2 again for her cross-examination.

4. Heard. Record perused.

5. Perusal of the record reveals that on dated

28.08.2023, PW-2 Salma was examined, cross-examined and discharged, even PW-2 was cross-examined at length on behalf of the accused Naushad, but was not cross-examined by Sh. Naresh, Ld. Proxy counsel for this applicant/accused Kamruddin despite opportunity being given and all the material and relevant questions were asked by Counsel for accused Naushad. Moreover, the said witness was being examined and cross-examined in the presence of the accused Naushad and Kamruddin and she was discharged only when she was completely cross-examined by the Ld. Counsel for accused Naushad.

6. The present application has been filed on 11.11.2024 after almost 14 months from the date, when the said witness was examined, that too, when the accused has engaged a new counsel. In the considered opinion of this court, merely change of counsel is not a valid ground for recalling the witness for further cross-examination, when the said accused has already been given opportunity to cross-examine the witness. Hence, there is no merit in the present application, so, the same is dismissed.

7. Accordingly, the present application stands **disposed of as dismissed.**

(PUNEET PAHWA)
Special Judge (NDPS)/Addl. Sessions Judge/
North East/KKD Courts/Delhi/04.02.2025