

CNR No.:DLNT01-000163-2011
SC No. 57657/2016
STATE Vs. Deepak Kaushik & Ors.
FIR No. 115/2011
PS Crime Branch-Outer
U/s: 3,4,5,9,55 DPG Act

19.10.2023

Present: Sh. A. B. Asthana, Ld. Addl. PP for State.
All four accused persons namely Deepak Kaushik,
Parvesh, Ankit Kaushik and Kapil Kaushik in person
on bail.
Sh. H P Sharma, Ld. Counsel for accused Ankit
Kaushik.
Sh. Ramit Malhotra, Ld. Counsel for accused
Deepak Kaushik and Kapil Kaushik.

Matter is listed today for PE.

PW-7 Retired ASI Jai Singh is present, examined-in-
chief, cross-examined and discharged.

It is has been pointed out by Ld. Counsel for accused
Deepak Kaushik and Kapil Kaushik that an application under
section 311 Cr. P.C., for recalling PW-1 Rajbir Singh is already
pending on record.

It is argued by Ld. Counsel for accused Deepak
Kaushik and Kapil Kaushik that on 09.03.2022, Hon'ble Court has
closed the opportunity of afore-mentioned accused persons to cross-
examine PW-1 ASI Rajbir Singh. It is further submitted that the
previous counsel Sh. Satish Singh Bawa has been appointed as
Additional Standing Counsel for NCT of Delhi, therefore, he could
not cross-examine PW-1 on 09.03.2022. It is further submitted that
the absence of counsel for accused is neither deliberate nor
intentional but for afore-mentioned compelling circumstances.

....Contd2/-

It is further submitted that cross-examination of PW-1 by applicant's counsel is very much necessary and essential for just decision of the case. It is therefore, prayed for kindly recall PW-1 ASI Rajbir Singh for his cross-examination.

Perusal of the file shows that in the present case, charge for the offences punishable under section 3 and 4 of Delhi Public Gambling Act has been framed against the accused persons namely Deepak Kaushik and Kapil Kaushik vide order dated 28.05.2014 and thereafter, the matter was fixed up for PE. Perusal of the file further shows, PW-1 ASI Rajbir Singh has been examined-in-chief, cross-examined by Ld. Counsel for accused Ankit Kaushik but could not be cross-examined by Ld. Counsel for accused persons namely Deepak Kaushik and Kapil Kaushik despite opportunity given and discharged.

Keeping in view of the submissions made by Ld. Counsel for accused persons namely Deepak Kaushik and Kapil Kaushik and in the interest of justice, the application U/s 311 Cr. PC., is hereby allowed, subject to the following conditions:-

(i) Only one effective opportunity shall be given for the purpose of cross-examination of PW-1 ASI Rajbir Singh on behalf of accused person namely Deepak Kaushik and Kapil Kaushik;

ii) the said opportunity shall be granted subject to availability of PW-1 ASI Rajbir Singh and her examination-in-chief shall be read in evidence in case he remains untraceable

(iii) the said opportunity shall be given subject to cost of Rs.1,000/- to be paid by each above-named accused to PW-1 ASI Rajbir Singh on NDOH.

...Contd3/-

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The application u/s 311 Cr.PC., filed on behalf of accused persons namely Deepak Kaushik and Kapil Kaushik is hereby allowed, accordingly.

Let fresh summons be issued upon PW-1 ASI Rajbir Singh through IO concerned for NDOH.

Be put up for PE on **06.11.2023**.

(Sushil Kumar)

Addl. Sessions Judge-04

North District Rohini Courts Delhi

19.10.2023 ^(R)