

SC 335/2021  
STATE Vs. SAJID KHAN  
FIR No. 77 /2021  
PS- (Sarita Vihar)  
13.12.2023

Present : Sh. Wasi-Ur-Rahman, Ld. Addl. PP for the State.  
Sh. Pritish Sabharwal, Sh. Sanjeet Kumar & Ms. Pooja,  
Ld. Counsel for applicant/accused.

An application has been moved on behalf of applicant/accused by learned counsel for seeking recall of primary eyewitness namely Mohd. Guljar u/s 311 Cr.P.C.

It has been submitted that there is a material contradiction in the statement of Mohd. Guljar made on 06.03.2021 and 07.03.2021, and this material contradiction was inadvertently not confronted to the witness, by the counsel. It has been submitted that in statement dated 06.03.2021, there is an exhortation by co-accused to kill the deceased, wherein in statement dated 07.03.2021, no extortion is made. Learned counsel thus submitted that in the interest of justice, the examination of witness Mohd. Guljar should be allowed.

*Per contra* Ld. Addl. PP for the State firstly submitted that the cross-examination of witness Mohd. Guljar was already conducted extensively. It was further submitted that the copies of all the statements & all documents from the record had already been given to accused and therefore, the accused had ample time to confront the witness. It was further submitted that the application u/s 311 Cr.P.C. ought not to be allowed to fill any lacunae, and no new evidence has come on record.

Submissions heard.

A perusal of the record reveals that in both the statements

dated 06.03.2021 and 07.03.2021 of Mohd. Guljar, there is an exhortation made, and as such there does not seem to be any material contradiction, as pointed by learned counsel for applicant/accused. Further, this Court concurs with the statement of the Ld. Addl. PP for the State that the witness Mohd. Guljar was extensively cross-examined. Further, it is pertinent to note that the presence of PW-1/Mohd. Guljar was sought with great difficulty.

Under these circumstances, since extensive cross-examination of PW-1/Mohd. Guljar has already been done and no material contradiction will come on record, this Court deems it fit to dismiss the application filed u/s 311 Cr.P.C.

Copy of the order be given dasti.

Further, today in compliance of order dated 07.12.2023, the medical status report of accused Sajid Khan, s/o Sh. Sakir Khan has been received from the Jail Superintendent, Central Jail No. 01, Tihar, Delhi. As per the report, it has been submitted that "*the inmate patient is regularly reviewed in dispensary for blood sugar level. The general condition of the inmate is stable and all prescribed medications and treatment are being provided to him fro jail dispensary*".

The report is taken on record.

Copy of the medical status report be given to learned counsel for applicant/accused.

Application as filed is hereby disposed of

Put up on the date already fixed i.e. on **22.02.2024**.

**(ARUL VARMA )**  
**ASJ-04 + Spl. Judge (NDPS),**  
**South East District, Saket Court,**  
**New Delhi /13.12.2023**