

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

Crl.R.C.No.504 of 2015

and

M.P.No.1 of 2015

M/s.Mahindra Consulting
Engineers Ltd.,
rep.by its
Chief Executive Officer,
as shown in the Charge Sheet,
B.Suresh

.... Petitioner/Accused No.2

Vs

SPE/CBI/ACB,
rep.by Inspector of Police,
CBI,
Nungambakkam,
Chennai-600 006

... Respondent/Complainant

Prayer:- Criminal revision case filed under Section 397 read with 401 Cr.P.C., against the order dated 20.04.2015 passed by the Chief Judicial Magistrate, Puducherry, in M.P.NO.636 of 2015 in C.C.No.14 of 2014.

For Petitioner :Mr.V.Raghavachari

For Respondent :Mr.K.Srinivasan,
Spl.Public Prosecutor,CBI

ORDER

Challenge in this criminal revision case is to the order dated 20.04.2015 passed in Crl.M.A.No.636 of 2015, in C.C.No.14 of 2014, by the Judicial Magistrate, Puducherry.

2. The revision petitioner, as petitioner, has filed the petition in question under Section 305 of the Code of Criminal Procedure, 1973, praying to permit one M.Janarthanan, Senior Manager of the petitioner, to represent the petitioner in C.C.No.14 of 2014.

3. It is averred in the petition that the petitioner has been arrayed as the second accused in C.C.No.14 of 2014. During pendency of the same, the present petition has been filed so as to accord necessary permission to the petitioner to depute the person mentioned therein to represent the petitioner.

4. The Court below, after considering the rival contentions raised on either side, has dismissed the petition. Against the dismissal order, the present criminal revision case has been filed.

5. Learned counsel appearing for the petitioner has contended that the present petition has been filed under Section 305 of the Code of Criminal Procedure, 1973, as a stopgap arrangement so as to represent the petitioner in C.C.No.14 of 2014 and the Court below, even without the purport of Section 305 of the Code of Criminal Procedure, 1973, has erroneously dismissed the petition and therefore, the order passed by the Court below is liable to be set aside.

6. Learned Special Public Prosecutor appearing for the respondent has fairly conceded the provision of Section 305 of the Code of Criminal Procedure, 1973, but the petitioner has not filed any petition to dispense with personal appearance and therefore, the present petition is not legally maintainable.

7. In fact, the petitioner has already filed a petition under Section 205 of the Code of Criminal Procedure, 1973 and thereby prayed to dispense with personal appearance and the said petition has been taken on file in CrI.M.A.No.2512 of 2014, wherein the Court below has specifically dispensed with personal appearance of the petitioner for time being and ultimately allowed the petition.

8. As stated earlier, the present petition has been filed under Section 305 of the Code of Criminal Procedure, 1973. In Sub-clause (2) of Section 305, it has been specifically stated that if any Corporation or company has been shown as an accused, a proper person can be nominated so as to represent the same. Therefore, it is quite clear that the petitioner is having ample power to nominate the person mentioned in the petition to make proper representation in C.C.No.14 of 2014.

9. The Court below, without considering the provision mentioned in Sub-clause (2) of Section 305 of the Code of Criminal Procedure, 1973, has simply dismissed the petition.

10. In view of the discussion made earlier and also in view of the order passed in CrI.M.A.No.2512 of 2014, this Court is of the view that the order passed by the Court below is erroneous and the same is liable to be set aside.

11. In fine, this criminal revision case is allowed and the order passed, in CrI.M.A.No.636 of 2015 in C.C.No.14 of 2014, by the Chief Judicial Magistrate, Puducherry, is set aside and the

petition filed in Crl.M.A.No.636 of 2015 is allowed. However, it is made clear that the petitioner should make his personal appearance if and when personal appearance is required by the Court below. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

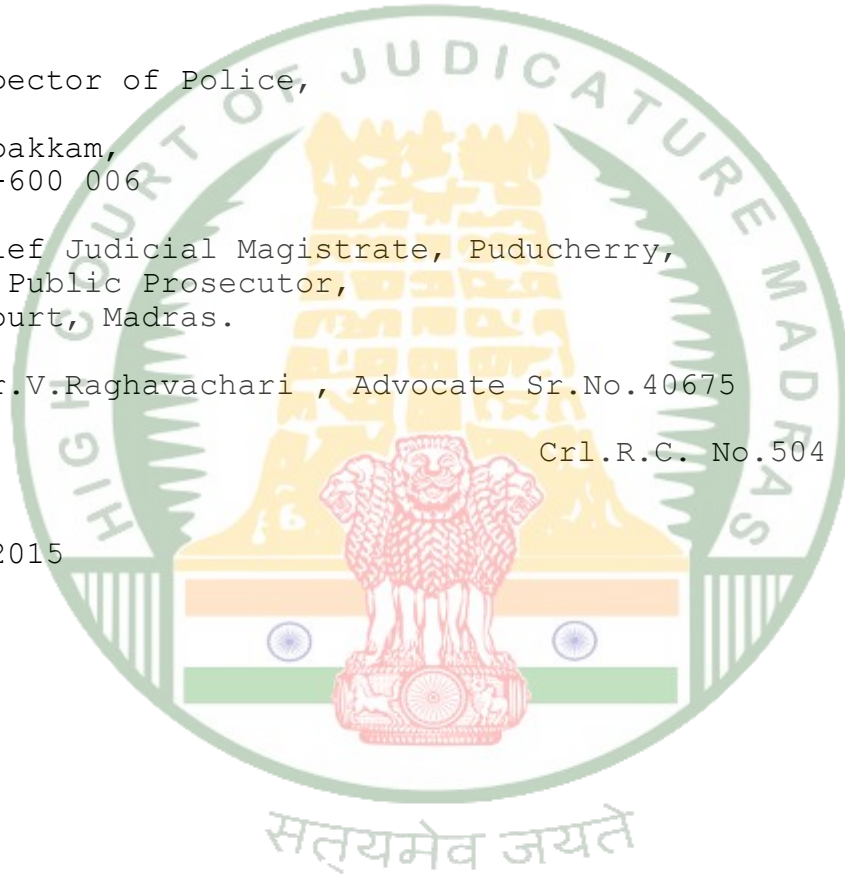
1.The Inspector of Police,
CBI,
Nungambakkam,
Chennai-600 006

2.The Chief Judicial Magistrate, Puducherry,
3 The Spl.Public Prosecutor,
High Court, Madras.

1 cc to Mr.V.Raghavachari , Advocate Sr.No.40675

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