

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No.M-14865 of 2016 (O&M)

Date of Decision: July 12, 2016

Shreegopal Daga and another

...Petitioners

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ishan Gupta, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. for quashing of order dated 16.11.2015 passed by learned Judicial Magistrate Ist Class, Sangrur, vide which the application filed by the petitioners seeking exemption from personal appearance was dismissed and judgment dated 15.01.2016 passed by learned Sessions Judge, Sangrur, vide which the revision filed by the petitioners was dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that an application for exemption from personal appearance was filed by the petitioners by stating that accused Shreegopal Daga is 75 years old person and residing at Amritsar and suffering from C-R Prostrate. It is also stated in the application that

he is also partner of Gopal Engineering, Amritsar. He is also Managing Director in M/s Swati Projects Ltd. Kolkata and Director of M/s Vinal Investments Ltd., Kolkata and he usually remains busy in the business. It is further stated that it is very much difficult for him to appear before the court on each and every date of hearing. It is also stated in the application that petitioner No.2 is Ex-Manager at Daga Company, Amritsar and he has resigned about one year back from the company and now he is working with Havels India Ltd.

The perusal of the application itself shows that it is not the case of petitioner No.1 that being old and ill person, he cannot come to the Court at Sangrur to attend the proceedings. Rather, from the averments, it looks that main ground for exemption is that he remains busy in business, which further shows that his age and illness from Prostrate, have no effect in attending the Court at Sangrur. The grounds looks to be that he remains busy in business being Director, Managing Director, partner, distributor etc. of various companies. The exemption from the personal appearance is the discretion of the Court and the Court is to see the facts and circumstances of the case for grant of exemption from personal appearance.

Learned counsel for the petitioners cited judgment passed by the Hon'ble Supreme Court in *M/s Bhaskar Industries Ltd. vs. M/s Bhiwani Denim & Apparels Ltd., 2001(4) RCR (Criminal) 137*. I have gone through this cited judgment and the same having distinguished facts will not apply in the present case.

As regarding petitioner No.2, it is also no ground for exemption that he resigned from the accused company about one year ago and now working with some other company.

The perusal of the order dated 16.11.2015 passed by learned JMIC, Sangrur, nowhere shows that this order is illegal or against the provisions or amounts to miscarriage of justice.

Therefore, finding no merit in the present petition, the same is dismissed.

July 12, 2016
Vgulati

(INDERJIT SINGH)
JUDGE