

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRL.P.No.11901 OF 2017

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C to quash the proceedings in C.C.No.332 of 2017 pending on the file of XXV Special Magistrate, Erramanzil, Hyderabad on the ground that the petitioner was kidnapped prior to filing of the complaint and obtained various documents i.e. signatures, cheques etc. and the Crime No.396 of 2016 was registered against the 2nd respondent/complainant, which is pending for investigation.

The question of obtaining signatures of the petitioner is the subject matter of Crime No.396 of 2016 registered for the offence punishable under Sections 342, 384, 506, 323 read with 34 IPC, but this Court cannot decide such disputed question of fact where the 2nd respondent kidnapped the petitioner and obtained signatures on various documents including cheques etc. while exercising power under Section 482 Cr.P.C. and such question has to be decided at the end of trial in the Crime No.396 of 2016, if charge sheet is filed before the competent Court.

During hearing, learned counsel for the petitioner requested this Court to dispense with the appearance of the petitioner before the trial Court on the date of adjournment and placed reliance on the judgment of the Apex Court in **M/s Meters and Instruments Private Ltd and another v Kanchan Mehta** (Crl.A.No.1731 of 2017, dated 05.10.2017) by exercising power under Section 205 Cr.P.C., without touching the merits of the Case.

In the above judgment, the Apex Court relied on the judgment in **Bhaskar Industries Ltd. V Bhiwani Denim and Apparels Ltd.**¹, wherein the Court dispensed with the appearance of the petitioner in an application filed under Section 205 Cr.P.C. But in **M/s Meters and Instruments Private Ltd and another's** case referred supra, an observation was made that only if the accused contests, need for appearance of parties may arise which may be through counsel and wherever viable, video conferencing can be used and that personal appearances can be dispensed with on suitable self operating conditions and that this is a matter to be considered by the High Courts and wherever viable, appropriate directions can be issued.

The present petition is filed to quash the entire proceedings in C.C., but not under Section 205 Cr.P.C. and such power has to be exercised by the Magistrate in his discretion.

In the absence of any application under Section 205 Cr.P.C., it is difficult to exercise such power to dispense with the appearance of the parties before the Court. However, the petitioner is permitted to file appropriate application under Section 205 Cr.P.C. and the trial Court is directed to dispose of the said application following the principles laid down in **M/s Meters and Instruments Private Ltd** and **Bhaskar Industries Ltd.** cases referred supra.

¹ (2001) 7 SCC 401

With the above direction, the criminal petition is disposed of, without touching the merits of the case since the disputed question of fact cannot be decided while exercising power under Section 482 Cr.P.C.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

04.12.2017
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