

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P. No.9779 OF 2018

ORDER:

Heard learned counsel for the petitioner and Public Prosecutor.

This criminal petition is filed under Section 482 Cr.P.C. questioning the order dated 15.03.2018 passed by the Additional Judicial Magistrate of First Class, Bodhan in Crl.M.P.No.287 of 2018 in S.T.C.No.4 of 2016.

The petitioner/accused filed petition under Section 205 Cr.P.C. to dispense with the personal attendance before the Court below in connection with S.T.C.No.4 of 2017 filed for the offence punishable under Section 92 of the Factories Act and permit him to appear through his counsel Sri P.Shankar, Advocate on the ground that he is suffering from ill-health, but the trial Court did not accept the said contention that no medical certificate to show that the petitioner is suffering from ill-health is filed and that the summons to the petitioner was not served since last one year, which caused delay in disposal of the matter.

The only ground raised before this Court by the petitioner is that he is suffering from ill-health and filed medical certificate along with the petition and that permit him to appear through his counsel Sri P.Shanker, Advocate before the Court below.

As seen from the allegations made in the complaint, the offence punishable under Section 92 of the Factories Act is punishable with imprisonment for two years or fine of Rs.1,00,000/- or both, thus, the offence allegedly committed by the petitioner is not grave or serious in nature and in view of the law declared by the Apex Court in **M/s Bhaskar Industries Ltd. V M/s Bhivani Denim and Apparels Ltd. and others¹**, the Court below ought to have allowed the application, but committed serious

¹ AIR 2001 SC 3625

error in dismissing the petition. Therefore, basing on the judgment of the Apex Court in **M/s Bhaskar Industries Ltd. V M/s Bhivani Denim and Apparels Ltd. and others**, I am of the view that it is a fit case to permit the petitioner to represent through counsel Sri P.Shanker, Advocate on all dates of adjournments in S.T.C.No.4 of 2016, but the petitioner is required to appear before the Court below for his examination, if any, and on the date of pronouncement of judgment. The petitioner is further directed to execute bond for Rs.1,00,000/- to the satisfaction of Additional Judicial Magistrate of First Class, Bodhan for his appearance as and when directed by the Court below.

With the above direction, the criminal petition is allowed setting aside the order dated 15.03.2018 passed in CrI.M.P.No.287 of 2018 in S.T.C.No.4 of 2016 by the Additional Judicial Magistrate of First Class, Bodhan.

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

14.09.2018
kvrm

M.SATYANARAYANA MURTHY,J