

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-17777-2019(O&M)

Date of Order:22.04.2019

Bridge and Building Construction Company Private Ltd.
and another

..Petitioners

Versus

A to Z Project Traders, Panipat.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arnav Kumar, Advocate
for the petitioners

ANIL KSHETARPAL, J(Oral)

Challenge is to the order passed by the learned trial Court dismissing the application for grant of permanent exemption from appearance of the accused-petitioners. Petitioner No.1 is a limited company whereas petitioner no.2 is its Director.

Learned trial Court has noticed that the accused-petitioners have not appeared even once.

Learned counsel appearing on behalf of the petitioners has relied upon the judgments passed by the Hon'ble Supreme Court in the cases of Sri Rameshwar Yadav and others vs. State of Bihar and another, (2018) 4 SCC 608 and M/s Bhaskar Industried Ltd. vs. M/s Bhiwani Denim & Apparels Ltd. (2001) 7 SCC 401 to assert that exemption should be granted liberally and the petitioner being resident of Calcutta which is at a distance of approximately 1500 Kms., therefore, the exemption ought to have been granted.

This court has considered the submissions.

Petitioners being accused and having been summoned are required to appear in Court and seek bail. In the present case, petitioners have not appeared even once, hence never sought to be released on bail. On 31.05.2018, petitioners no.1 and 2 appeared through counsel and filed application under Section 205 of the Code of Criminal Procedure for grant of exemption, which was allowed for 31.05.2018 only and the accused were directed to appear before the Court on 06.07.2018, on which date petitioners-accused failed to appear. Again application for exemption was filed, which was allowed, granting exemption from personal appearance for 06.07.2018 and the case was listed for 05.09.2018. On 05.09.2018 also, petitioners did not appear and another application for exemption was filed, which has been dismissed.

Hon'ble Supreme Court in the case of **Sri Rameshwar Yadav (supra)** was dealing with a situation when the petitioners before the Supreme Court had been granted pre-arrest bail and the petitioners had furnished bonds and sureties to the satisfaction of the court after they had appeared before the Court. Hence, the aforesaid judgment would not come to support the petitioners.

As far as judgment by the Hon'ble Supreme Court in the case of **M/s Bhaskar Industried Ltd. (supra)**, it was laid down that in appropriate cases the Magistrate can allow an accused to make first appearance through a counsel, however, that would always depend upon the facts of the case. In the present case, the learned trial Court had granted indulgence to the petitioners on 31.05.2018 and 06.07.2018. The learned trial court was not in error in refusing to grant further exemption in absence of cogent grounds.

Keeping in view the conduct of the petitioners, at this stage, application for permanent exemption has rightly been dismissed. Petitioners, if so advised, would be at liberty to appear before the learned trial Court and seek bail and thereafter file fresh application under Section 205 of the Code of Criminal Procedure.

In view thereof, the present petition is dismissed.

April 22, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No